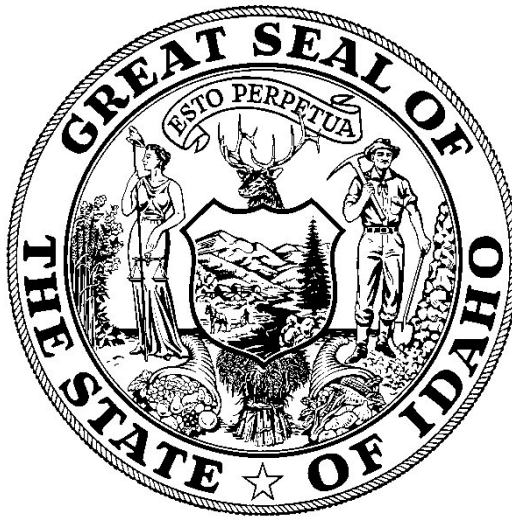


A GUIDE TO THE IDAHO SEX OFFENDER REGISTRATION PROGRAM

August 2009 (Revised 11/9/2009)



**Prepared by
Idaho State Police
Bureau of Criminal Identification**

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PREFACE

In 1998, the Idaho Legislature enacted Senate Bill 1297, the "Sexual Offender Registration Notification and Community Right-to-Know Act," (Chapter 83) and Senate Bill 1298, the "Juvenile Sex Offender Registration Notification and Community Right-to-Know Act" (Chapter 83).

Senate Bill 1297 replaced an adult sex offender registration law in place since July 1993; Senate Bill 1298 instituted a new registration program for juvenile sex offenders who are ages 14 to 18 at the time they are adjudicated delinquent. Both acts were effective on July 1, 1998. In the ensuing years the legislature has made adjustments and amended the statutes, this guide incorporates the changes made through the 2009 session.

Both Chapters 83 and 84 direct the Idaho State Police, administrator of the central sex offender registry, to prepare an instruction manual for the program. The purpose of this publication is to assist personnel of criminal justice agencies and of court administration in fulfilling their responsibilities under the laws. It should also assist utilizing fully the features of the sex offender registration program and ensure that these laws achieve the legislative intent of enhanced public safety.

Information contained in the publication should not be relied upon as legal advice for a particular individual case. This information is provided as a reference guide only. In addition, please be aware that this publication is only represented to be current as of the version date on the cover page. Information, forms, and exhibits may have been altered, added, or deleted since that date.

If you have questions about the guide's contents, please call the Bureau of Criminal Identification Sex Offender Registry Unit at (208) 884-7305; e-mail questions to: idsor@isp.idaho.gov; or you may also write the central sex offender registry at the following address:

Central Sex Offender Registry
Idaho State Police
Bureau of Criminal Identification
700 S. Stratford Drive
Meridian, ID 83642

SECTION I. ADULT SEX OFFENDER REGISTRATION

BACKGROUND

Sex offender registration in Idaho began on July 1, 1993, with the establishment of a sex offender central registry at the Idaho State Police (ISP). It entailed a statutory duty for persons convicted of certain felony sex crimes to register with their local sheriff. As of June 1, 1998, a total of 1,772 sex offenders were registered in the central registry at ISP.

In 1998, the Legislature repealed the original act and enacted the “Sexual Offender Registration Notification and Community Right-to-Know Act” to strengthen program administration and to expand public access to central registry information. The Legislature intended the new law to comply with federal standards for sex offender registration programs established under the Jacob Wetterling Act and Megan’s Law. These federal standards encourage interstate communication among state central registries and participation by the States in the national sex offender registry managed by the FBI.

The registration law, effective July 1, 1998, is codified as Chapter 83, Title 18, Idaho Code (I.C. §18-8301 through 18-8331). This guide has been updated to reflect amendments to the Law by the Legislature through the 2009 session.

The text of the act as amended is included in Appendix B.

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CRITERIA FOR REGISTRATION

Qualifying Offenses. Sex offender registration applies to persons convicted of the crime or an attempt, a solicitation, or a conspiracy to commit one or more of the following felony offenses enumerated in Section §18-8304, Idaho Code:

- 18-909 (assault with attempt to commit rape, infamous crime against nature, or lewd and lascivious conduct with a minor, but excluding mayhem, murder or robbery)
- 18-911 (battery with attempt to commit rape, infamous crime against nature, or lewd and lascivious conduct with a minor, but excluding mayhem, murder or robbery)
- 18-919 (sexual exploitation by a medical care provider)
- [18-1505B](#) (sexual abuse and exploitation of a vulnerable adult)
- 18-1506 (sexual abuse of a child under sixteen years of age)
- 18-1506A (ritualized abuse of a child),
- 18-1507 (sexual exploitation of a child)
- 18-1507A (possession of sexually exploitative material for other than a commercial purpose)
- 18-1508 (lewd conduct with a minor child)
- 18-1508A (sexual battery of a minor child sixteen or seventeen years of age)
- 18-1509A (enticing a child over the internet)
- 18-4003(d) (murder committed in perpetration of rape)
- 18-4116 (indecent exposure, but excluding a misdemeanor conviction)
- 18-4502 (first degree kidnapping committed for the purpose of rape, committing the infamous crime against nature or for committing any lewd and lascivious act upon any child under the age of sixteen, or for purposes of sexual gratification or arousal)
- 18-4503 (second degree kidnapping where the victim is an unrelated minor child)
- [18-5609](#) (inducing person under eighteen years of age into prostitution)
- 18-6101 (rape, but excluding 18-6101(1) where the defendant is eighteen years of age or younger or where the defendant is exempted under subsection (4) of 19-8304*)
- 18-6108 (male rape)
- 18-6110 (sexual contact with a prisoner)

- 18-6602 (incest)
- 18-6605 (crime against nature)
- 18-6608 (forcible sexual penetration by use of a foreign object)
- 18-6609, Idaho Code (video voyeurism) second or subsequent conviction
- [18-8602](#)(1), Idaho Code, (sex trafficking)

* When a defendant is convicted of rape under section 18-6101 1., Idaho Code, and at the time of the offense the defendant is nineteen (19) or twenty (20) years of age and not more than three (3) years older than the victim of the rape, the court may order that the defendant is exempt from the requirements of this chapter upon a finding by the court that:

1. All parties have stipulated to the exemption; or
2. The defendant has demonstrated by clear and convincing evidence that he is not a risk to commit another crime identified in 18-8304(a) and in the case there were no allegations by the victim of any violation of section 18-6101 2. through 7., Idaho Code.

Qualifying Circumstances. Registration applies to the following circumstances:

- A conviction on or after July 1, 1993 in an Idaho court of the crime, or an attempt, a solicitation, or a conspiracy to commit any of the qualifying offenses
- A conviction on or after July 1, 1993 of any crime, an attempt, a solicitation or a conspiracy to commit a crime in another state, territory, commonwealth, or other jurisdiction of the United States, including tribal courts and military courts, that is substantially equivalent to any of the qualifying offenses and enters the state to establish permanent or temporary residence
- Has been convicted of any crime, an attempt, a solicitation or a conspiracy to commit a crime in another state, territory, commonwealth, or other jurisdiction of the United States, including tribal courts and military courts, that is substantially equivalent to any of the qualifying offenses and was required to register as a sex offender in any other state or jurisdiction when he established permanent or temporary residency in Idaho
- Plead guilty to or has been found guilty of any of the qualifying offenses prior to July 1, 1993, and the person, as a result of the offense, was incarcerated in a county jail facility or a penal facility or was under probation or parole supervision, on or after July 1, 1993
- Is a nonresident regularly employed or working in Idaho or is a student in the state of Idaho and was convicted, found guilty or pleaded guilty to any of the qualifying offenses and, as a result of such conviction, finding or plea, is required to register in his state of residence

For the purposes of registration, conviction means that the person has pled guilty or has been found guilty, no matter the form of judgment or withheld judgment.

Complying with registration requirements is not required while a person is incarcerated in a correctional institution operated or regulated by the Department of Correction, a county jail facility, or committed to a mental health institution of the Department of Health and Welfare.

A juvenile convicted as an adult of any of the qualifying offenses is subject to registration under the adult sex offender registration program.

Nonresident definitions. For the purposes of the registration, the following definitions apply to nonresident offenders:

- Employed means full or part-time employment exceeding ten (10) consecutive working days or for an aggregate period exceeding thirty (30) days in any calendar year, or any employment which involves counseling, coaching, teaching, supervising or working with minors in any way, regardless of the period of employment, whether such employment is financially compensated, volunteered or performed for the purpose of any government or education benefit.
- Student means a person who is enrolled on a full-time or part-time basis, in any public or private educational institution, including any secondary school, trade or professional institution or institution of higher education.

OBLIGATIONS/DUTIES OF REGISTERED SEX OFFENDERS

The registration law imposes a number of obligations on sex offenders required to register. They include the following:

- Within 2 working days of coming into a county to establish residence or temporary domicile, the sex offender must register in person.
- Within 2 working days of commencement of employment or enrollment in an educational institution, the nonresident sex offender must register in person with the sheriff of the county where employed or enrolled. Prior to commencement of employment in counseling, coaching, teaching, supervising or working with minors in any way, regardless of the period of employment, the nonresident sex offender must register in person with the sheriff of the county where employed.
- Within 7 days of the mailing date of the address verification notice from the central registry, the sex offender must mail back the address verification in the envelope provided by the central registry. These are mailed every to the offenders addresses every 4 months, unless the offender is designated as a “violent sexual predator”. If designated as “violent sexual predator” the offender will receive an address verification every month.
- A sexual offender who does not provide a physical residence address at the time of registration shall report, in person, once every seven (7) days to the sheriff of the county in which he resides.

- Within 2 working days of changing the address or location of residence within the county where the sex offender is registered, the offender must report in person to notify the sheriff of that county of the change.
- Within 2 working days of changing enrollment or employment in a college or university within the county where the sex offender is registered, the offender must report in person to notify the sheriff of that county of the change in status.
- Within 5 working days of moving to another state, the registered sex offender must provide written notice of the move to the central sex offender registry. The person must also register in the other State within the time period required by that State, but not to exceed 10 days.
- Within 5 working days of an order, event or occurrence of the offenders legal name changing whether by marriage, judicial order or any other means

DURATION OF REGISTRATION

Registration is for life of the offender. However, a registered sex offender other than a recidivist, an aggravated offender or a violent sexual predator may petition the court for exemption from the duty to maintain registration. This may be done after a period of 10 years, from the date of release from incarceration or of placement on parole or probation, whichever is greater. Section 18-8310 of the registration law lists the conditions for the petition. See Appendix B.

PENALTIES FOR VIOLATION OF THE REGISTRATION LAW

A sex offender subject to registration who fails to register or provide required notice is guilty of a felony and may be sentenced by the court to imprisonment for a period of 10 years and fined \$5,000.

If the offender is on probation or supervised release at the time of the violation, the probation or release shall be revoked and the penalty for violating the registration law shall be served consecutively to the offender's original sentence.

In addition, a sex offender subject to registration who willfully provides false or misleading information in the registration is guilty of a felony and may be sentenced by the court to imprisonment for a period of 10 years and fined \$5,000.

VIOLENT SEXUAL PREDATORS

The adult sex offender registration law defines a "violent sexual predator" as a person who has been convicted of an offense listed in section 18-8312, Idaho Code, and who has been determined to pose a risk of committing a sex offense or engaging in predatory sexual conduct. The list of qualifying offenses listed in I.C. § 18-8312 is a subset of those listed in I.C. § 18-8304 (see page 2).

The law creates the Sexual Offender Classification Board in the Department of Correction. The board considers for review offenders scheduled for release from incarceration, which are referred by the department of correction or parole commission to determine whether the offender should be designated as a violent sexual predator presenting a high risk of reoffending.

A sex offender previously registered and classified by another State as a violent sexual predator who moves to Idaho is considered a "violent sexual predator" for purposes of complying with Idaho's sex offender registration requirements. Information released by the central registry to the public and released via ILETs to criminal justice agencies will identify those sex offenders designated as "violent sexual predators."

A violent sexual predator is subject to monthly address verifications between quarterly registrations. The violent sexual predator is obligated to pay a fee of \$10 to the sheriff at the time of each quarterly registration. The sheriff may waive the registration fee if the offender demonstrates indigence. The fees collected are to be used by the sheriff to defray the cost of registration.

Upon registration in a county of a person classified as a violent sexual predator presenting a high risk of reoffense by the Idaho sex offender classification board, or an equivalent classification in another state, the sheriff shall publish in a newspaper in general circulation within the county once a week for three (3) consecutive weeks, the name, address, photograph of said person and offense the offender has committed within thirty (30) days of registration and within this time period shall also disseminate the name, address, photograph of said person and offense the offender has committed to all major local radio and television media. The sheriff shall charge a fee of fifty dollars (\$50.00) in addition to any other fees authorized by this chapter to be paid by the sex offender. Fees shall be deposited in a violent sexual predator account maintained by the sheriff to be used for the purpose of public education relating to violent sexual predators and to offset the cost of newspaper publication.

NOTICE OF DUTY TO REGISTER AND INITIAL REGISTRATION

At the time of conviction or release from incarceration, a sex offender subject to registration is provided notice of the requirements of registration.

- If the sex offender is convicted and released on probation without incarceration, notification is the responsibility of the sentencing court.
- If the person is being released from incarceration after conviction, the Department of Correction or jail is responsible for the notification.

Notification is achieved by completion of the two-page *Notification and Registration Form*. A copy of the form may be found in Appendix A. Initial registration also takes place at time of notification. With the information collected at this time, the central registry will initiate an automated record and will notify the local law enforcement agency where the sex offender intends to reside. The instructions for completing the form are on the reverse side of the last page of the three-part form.

The official conducting the notification and initial registration must ensure that the appropriate data fields on the second page of the form are complete and that the offender has read and signed the form.

The official conducting notification and initial registration must send the original white copies of the *Notification and Registration Form* to the central registry within three working days. The yellow copies are retained by the notifying official, and the pink copy is given to the offender.

If the offender is being released from a county jail after serving a sentence of incarceration for a qualifying sex offense, the offender should be registered at that time by the sheriff using *the Notification and Registration Form*, which is discussed below relating to local and annual registration.

Section 18-8306, Idaho Code, is the provision of the registration law that relates to notification and initial registration. See Appendix B.

LOCAL AND ANNUAL REGISTRATION BY SHERIFF

Resident sex offenders subject to registration must, within 2 working days of coming into a county to establish residence or temporary domicile, register in person with the sheriff. Nonresident sex offenders subject to registration must, within 2 working days of commencing employment or enrolling in an educational institution in the county, register in person with the sheriff. However, the nonresident sex offenders subject to registration must, prior to commencing employment in counseling, coaching, teaching, supervising or working with minors in any way, regardless of the period of employment, register in person with the sheriff of the county where employed.

Registration involves completing the two-page *Notification and Registration Form*, taking fingerprints on the FBI fingerprint card FD-249, and taking of a photograph. On the first of the month containing the anniversary of a sex offender's last local registration, the central registry will mail a non-forwardable notice of annual registration to the offender's last reported address. Within 5 days of the mailing date of the notice, the offender must re-register in person with the sheriff.

Completing all data fields on the FBI fingerprint card is not necessary. Please see the example in Appendix A (page A-11). Note that in the charge/citation field, enter "sex offender registration" and in the disposition field enter "released." Only one fingerprint card is needed for local/annual registrations.

The official conducting the local/annual registration must send the original white copies of the *Notification and Registration Form* (along with the fingerprints and photograph) to the central registry within three working days. The yellow copy of the registration form is retained by the agency, and the pink copy is given to the offender.

The official conducting the registration must ensure that the appropriate data fields on both pages of the form are complete and that the offender has read and signed both pages of the form.

The sex offender is obligated to pay a fee of \$40 to the sheriff at the time of each annual registration. In the case of a violent sexual predator, the registration is every quarter and the offender is obligated to pay a \$10 fee to the sheriff at each quarterly registration. The sheriff may waive the registration fee if the offender demonstrates indigence. The fees collected are to be used by the sheriff to defray the cost of registration.

The sheriff or appointed deputies are authorized by the registration law to visit the residence of registered sex offenders at any reasonable time to verify the address and other information provided at the time of registration. Section 18-8307, Idaho Code, is the provision of the registration law that relates to local/annual registration. See Appendi

CHANGE OF ADDRESS AND/OR STATUS

Within 2 working days of changing the address or residence within the county where the sex offender is registered, the offender must notify the sheriff of that county of the change by appearing in person at the sheriff's office and completing the *Notification and Registration Form*. The sheriff's office receiving the change of address notice must send the original white copies of both pages of the form to the central registry within three working days. The yellow copies of the registration form are retained by the agency, and the pink copies are given to the offender. The official receiving the notice must ensure that the appropriate data fields on both pages of the form are complete and that the offender has read and signed both pages of the form.

Within 2 working days of changing the enrollment or employment in an Idaho institution of higher learning within the county where the sex offender is registered, the offender must notify the sheriff of that county of the change by appearing in person at the sheriff's office and completing the form. The sheriff's office receiving the change of status notice must send the original white copies of the form to the central registry within three working days. The yellow copies of the registration form are retained by the agency, and the pink copies are given to the offender. The official receiving the notice must ensure that the appropriate data fields on the form are complete and that the offender has read and signed the form.

Within 5 days of moving to another state, the registered sex offender must provide written notice of the move to the central sex offender registry. No special form is provided for this purpose. The notice should be a signed letter that shows the address, city and state where the offender is moving or has moved. The person must also register in the other state within the time period required by that State, but not to exceed 10 days. After receiving the notice of an offender moving to another State, the Idaho central registry will notify the other State's central sex offender registry and the county sheriff in Idaho where the offender was registered.

CRIMINAL JUSTICE ACCESS TO REGISTRY INFORMATION

All data collected through the registration of sex offenders will be available on-line to criminal justice agencies via the Idaho Public Safety and Security Information System, known as ILETs. Criminal justice agencies without terminal access to ILETs may contact the central registry directly at (208) 884-7305.

Photos of all registered offenders are available via the Central Registry's web site at: http://www.isp.state.id.us/sor_id/. Criminal justice agencies desiring a photograph or fingerprints of a registered sex offender may also call the above number or e-mail: idsor@isp.idaho.gov.

DISSEMINATION OF REGISTRY INFORMATION TO SCHOOLS

Quarterly, the central registry will provide to the Superintendent of Public Instruction a list of all juvenile registered sex offenders and adult offenders under age 21, with the address, date of birth, and crime of conviction of each offender listed. The superintendent, at his or her discretion, may further distribute the list, or a portion of the list, to schools or school districts. The lists will include a cautionary statement that must be included with any further distribution (secondary dissemination). See Appendix A for the text of the cautionary statement. These quarterly reports may be foregone at the request of the appropriate agency that prefers to access the registry through the Internet connection.

The central registry also displays sex offenders who are delinquent in maintaining registration or address verification. This listing is updated daily.

PUBLIC ACCESS TO REGISTRY INFORMATION

Any person may inquire on a named individual or request a list of registered sex offenders by name, city, zip code or county. This is accomplished with no fee when accessing the Idaho State Police Internet site at www.isp.state.id.us with links to the Sex Offender Registry and Violent Sexual Predator List. The web site includes photos of all offenders and mapping capabilities.

A person may also inquire by submitting a completed SOR-4 form to the central registry or a local sheriff. The central registry and sheriff have 10 days to respond to the submitted SOR-4. The central registry and sheriffs are authorized to charge \$5 for each inquiry on an individual and each request for a list of offenders. The fees received by the sheriff shall be used to defray the cost of local sex offender registration and administration of the public access requirements. See Appendix A for a copy of the SOR-4 form.

Any person may also request a photograph of a registered sex offender from the central registry. This request must be made using the SOR-5 form. ISP will charge \$5 for each individual photograph. See Appendix A for a copy of the SOR-5 form.

Information provided in response to a public request is limited to the offender's name, address, aliases, date of birth, crime(s) of conviction, place(s) of conviction, and status as a violent sexual predator. All responses to individual inquiries or requests for lists will include a cautionary statement concerning misuse of the information. See Appendix A for its text. Further distribution of registry information or lists must include this cautionary statement.

The central registry will retain original copies of submitted SOR-4 and SOR-5 forms for a period of two years. The sheriff must also retain copies of SOR-4 forms for a period of two years from the date of submission. These forms are available for inspection only by law enforcement and criminal justice agencies.

EXEMPTION FROM CIVIL LIABILITY

Section 18-8325 provides the following exemptions from civil liability:

- (1) No person or governmental entity, other than those specifically charged in this chapter with a duty to collect information under this chapter regarding registered sexual offenders, has a duty to inquire, investigate or disclose any information regarding registered sexual offenders.
- (2) No person or governmental entity, other than those specifically charged in this chapter with an affirmative duty to provide public access to information regarding registered sexual offenders, shall be held liable for any failure to disclose any information regarding registered sexual offenders to any other person or entity.
- (3) Every person or governmental entity who, acting without malice or criminal intent, obtains or disseminates information under this chapter shall be immune from civil liability for any damages claimed as a result of such disclosures made or received.

PENALTIES FOR MISUSE OF REGISTRY INFORMATION (VIGILANTISM)

It is the Legislature's intent that the sex offender registration program is a public safety program, not a punitive or correctional program. Any person who uses information from the registry to commit a crime, or to cause physical harm a registered sex offender or damage to property shall be guilty of a misdemeanor, in addition to any other punishment for any associated crime(s).

All information relating to individual sex offenders released will include a cautionary statement warning of misuse of the information and harassment of registered sex offenders.

ADULT CRIMINAL SEX OFFENDER – PROHIBITED EMPLOYMENT

Except as provided in section 18-8328, Idaho Code, it is a felony for any person to: apply for or to accept employment at a day care center, group day care facility or family day care home; or to be upon or to remain on the premises of a day care center, group day care facility or family day care home while children are present, other than to drop off or pick up the person's child or children if the person is currently registered or is required to register under the sex offender registration act as provided in chapter 83, title 18, Idaho Code.

In addition the owner or operator of any day care center, group day care facility or family day care home who knowingly employs a person or who knowingly accepts volunteer services from a person, which person is currently registered or is required to register under the sex offender registration act as provided in chapter 83, title 18, Idaho Code, to work in the day care center, group day care facility or family day care home is guilty of a misdemeanor unless judicial relief has been granted pursuant to section 18-8328, Idaho Code.

Action for relief by offender or juvenile offender. Any person who is required to register under either the adult or the juvenile registry may file a petition in a district court in the judicial district where the person resides, to have relief from the provisions of section 18-8327 or 18-8414, Idaho Code, pertaining to employment in or being upon or remaining on the premises of a day care center, group day care facility or family day care home while children are present, other than to drop off or pick up the sex offender's or juvenile sex offender's child or children.

To be granted relief, the person must show by clear and convincing evidence that the person required to register, does not pose a threat to children in a day care center, group day care facility or family day care home, it has been at least ten (10) years since the person's last conviction, finding of guilt or adjudication that required the person to register, and the petitioner presents testimony from a licensed physician or psychologist about the petitioner's chance of success of not committing an act against children.

ADULT CRIMINAL SEX OFFENDERS – PROHIBITED ACCESS TO SCHOOL CHILDREN – EXCEPTIONS

If a person is currently registered or is required to register as a sex offender, it is a misdemeanor for such person to:

1. Be upon or to remain on the premises of any school building or school grounds in this state when the person has reason to believe children under the age of eighteen (18) years are present.
2. Knowingly loiter on a public way within five hundred (500) feet of a school building or school grounds in this state when children under the age of eighteen (18) years are present.
3. Be in any conveyance owned, leased or contracted by a school to transport students to or from school or a school-related activity when children under the age of eighteen (18) years are present in the conveyance.
4. Reside within five hundred (500) feet of the property on which a school is located, provided however, that this paragraph (d) shall not apply if such person's residence was established prior to July 1, 2006.

These provisions do not apply when the person:

1. Is a student in attendance at the school Is attending an academic conference or other scheduled school event with school officials as a parent or legal guardian of a child who is enrolled in the school and is participating in the conference or event
2. Resides at a state licensed or certified facility for incarceration, health or convalescent care
3. Is dropping off or picking up a child or children and the person is the child or children's parent or legal guardian
4. Is temporarily on school grounds, during school hours, for the purpose of making a mail, food or other delivery

Nothing in this section of Idaho law that prevents a school district from adopting more stringent safety and security requirements for employees and non-employees while they are in district facilities and/or on district properties.

SECTION II. JUVENILE SEX OFFENDER REGISTRATION

BACKGROUND

In 1998, the Legislature enacted Senate Bill 1298, the “Juvenile Sexual Offender Registration Notification and Community Right-to-Know Act.” Previously, only juveniles convicted as adults were subject to sex offender registration.

The juvenile registration law, effective July 1, 1998, is codified as Chapter 84, Title 18, Idaho Code (sections 18-8401 through 18-8314). See Appendix B for the text.

Highlights of the juvenile registration program include:

- registration of juvenile sex offenders who are between the ages of 14 and 18 at the time of the offense
- initial registration at time of adjudication or release from incarceration
- annual registration
- automatic purge from the registry at age 21
- provision for transferring a juvenile sex offender to adult registry
- public access to named juvenile registry records and lists of registered offenders by city, county or zip code
- public requests for information may be obtained from the ISP web site or handled by local sheriff, as well as central registry at ISP.

CRITERIA FOR REGISTRATION

Qualifying Offenses. Juvenile sex offender registration applies to a person:

- who was adjudicated delinquent under the juvenile corrections act for an action that would be an offense enumerated in section 18-8304, Idaho Code, if committed by an adult (See list of offenses in Adult Registration Criteria); and
- who was between 14 and 18 years of age at the time of the qualifying offense.

Qualifying Circumstances. Registration applies to the following circumstances:

- an adjudication of delinquency in an Idaho court for the equivalent of any qualifying offense on or after July 1, 1998
- an adjudication of delinquency in an Idaho court for the equivalent of any qualifying offense before July 1, 1998, if the juvenile is serving formal probation, a period of detention, or commitment to the department of juvenile corrections on July 1, 1998
- an adjudication of delinquency in another State for an action that is substantially equivalent to any qualifying offense, and is subject on or after July 1, 1998, to Idaho court jurisdiction under the interstate compact on juveniles.
- is required to register in another State for having committed a sex offense in that State, regardless of the date of the offense or its adjudication.

A juvenile convicted as an adult of any of the qualifying offenses is subject to registration under the adult sex offender registration program.

OBLIGATIONS/DUTIES OF REGISTERED JUVENILE SEX OFFENDERS

The juvenile registration law imposes the same obligations as the adult registration program. They include the following:

- Within 2 working days of coming into a county to establish residence or temporary domicile, the juvenile sex offender must register in person with the sheriff
- Within 5 days of receiving notice of annual registration from the central registry, the sex offender must re-register in person with the sheriff
- Within 7 days of receiving the address verification notice from the central registry, the sex offender must sign and have the address verification returned in the envelope provided by the central registry. A sexual offender who does not provide a physical residence address at the time of registration shall report, in person, once every seven (7) days to the sheriff of the county in which he resides.
- Within 2 working days of changing the address or location of residence within the county where the sex offender is registered, the offender must notify the sheriff of that county of the change

- Within 2 working days of changing enrollment or employment in a college or university within the county where the sex offender is registered, the offender must notify the sheriff of that county of the change of status
- Within 5 days of moving to another state, the registered sex offender must provide written notice of the move to the central sex offender registry. The person must also register in the other State within the time period required by that State, but not to exceed 10 days.

A juvenile need not comply with registration requirements while serving a period of detention in a county facility or a facility operated by the department of juvenile corrections.

DURATION OF REGISTRATION

A juvenile sex offender is required to comply with registration requirements until reaching the age of 21. The prosecutor may petition the court to transfer a registered juvenile sex offender at age 21 to the adult registry, if the person is likely to pose a threat to the safety of others. If no petition is filed, the juvenile offender's record will be deleted from the central registry at age 21.

PENALTIES FOR VIOLATION OF THE REGISTRATION LAW

A juvenile sex offender subject to registration who fails to register or provide required notice is guilty of a misdemeanor.

A parent or guardian of a juvenile sex offender, who fails to register or provide required notice, would also be guilty of the misdemeanor offense of failure to supervise a child. If convicted, the person is subject to a fine of not more than \$1000.

NOTICE OF DUTY TO REGISTER AND INITIAL REGISTRATION

At the time of sentencing or release from detention, a juvenile sex offender subject to registration is provided notice of the requirements of registration.

- If the juvenile is sentenced and released on probation without detention, notification is the responsibility of the sentencing court.
- If the juvenile is being released after a period of detention, the county or department of juvenile corrections is responsible for the notification.

Identical to procedures for adult sex offenders, notification is achieved by completing the *Notification and Registration Form*. A copy of the two-part form may be found in Appendix A. Registration also takes place at time of notification. With the information collected at this time, the central registry will initiate an automated file or record and will notify the local law enforcement agencies where the sex offender intends to reside. The instructions for completing both pages of the form are on the reverse side of the last page of both pages of the three-part form.

The official conducting notification and initial registration must send the original white copies of the *Notification and Registration Form* to the central registry within **three working days**. The yellow copies are retained by the notifying official, and the pink copy is given to

the offender. The official conducting the notification and initial registration must ensure that the appropriate data fields on the forms are complete and that the offender has read and signed the form. The juvenile's parent or guardian must also sign the form.

LOCAL AND ANNUAL REGISTRATION BY SHERIFF

The procedure for registering juvenile sex offenders is identical to that prescribed for adult offenders. Section 18-8407 of the juvenile registration law provides that the registration and change of address requirements of the adult registration law (I.C. § 18-8307 and 18-8309) apply to juveniles subject to registration.

Within 2 working days of coming into a county to establish residence or temporary domicile, the juvenile sex offender must register in person with the sheriff. Identical to procedures for adult sex offenders, registration involves completing both pages of the *Notification and Registration Form*, taking fingerprints on the FBI fingerprint card FD-249, and taking a photograph.

On the first of the month containing the anniversary of a juvenile sex offender's last local registration, the central registry will mail a non-forwardable notice of annual registration to the offender's last reported address. Within 5 days of the mailing of the notice, the offender must re-register in person with the sheriff. The annual re-registration will also involve completing the *two-page Notification and Registration Form*, taking fingerprints on the FBI fingerprint card FD-249, and taking a photograph.

Copies or examples of both pages of the *Notification and Registration Form*, and FD-249 card are in Appendix A. Instructions for completing the form are on the reverse side of the last page of the three-part forms.

Completing all data fields on the FBI fingerprint card is not necessary. Please see the example in Appendix A (page A-11). Note that in the charge/citation field you enter "sex offender registration" and in the disposition field enter "released." **Only one fingerprint card is needed for registration activity.**

The official conducting the local/annual registration must send the original white copies of the *Notification and Registration Form* (along with the fingerprints and photograph) to the central registry within three working days. The yellow copies of the registration forms are retained by the agency, and the pink copies are given to the offender. The official conducting the registration must ensure that the appropriate data fields on both pages of the form are complete and that the juvenile sex offender has read and signed both pages of the form. The juvenile's parent or guardian must also sign the form.

The juvenile sex offender is obligated to pay a fee of \$40 to the sheriff at the time of each registration. The sheriff may waive the registration fee if the offender demonstrates indigence. The fees collected are to be used by the sheriff to defray the cost of registration.

CHANGE OF ADDRESS

Within 2 working days of changing the address or location of residence within a county where the juvenile sex offender is registered, the offender must notify the sheriff of the county of the change. This offender, and parent or guardian, if under 18, appears in person at the sheriff's office and completes the *Notification and Registration Form*.

The sheriff's office receiving the change of address notice must send the original white copies of the form to the central registry **within three working days**. The yellow copies of the registration form are retained by the agency, and the pink copies are given to the offender. The official receiving the notice must ensure that the appropriate data fields on the form are complete and that the offender has read and signed both pages of the form.

Within 5 days of moving to another State, the registered sex offender must provide written notice of the move to the central sex offender registry. No special form is provided for this purpose. The notice should take the form of a signed letter that shows the address, city and State to which the offender is moving or has moved. The person must also register in the other State within the time period required by that State, but not to exceed 10 days. After receiving the notice of an offender moving to another State, the Idaho central registry will notify the other State's central sex offender registry and the county sheriff in Idaho where the offender was registered.

CRIMINAL JUSTICE ACCESS TO REGISTRY INFORMATION

Identical to the adult registry, all data collected through the registration of juvenile sex offenders will be available on-line to criminal justice agencies via the Idaho Law Enforcement Telecommunication System (ILETS). Criminal justice agencies without terminal access to ILETS may contact the central registry directly at (208) 884-7305.

Criminal justice agencies desiring a photograph or fingerprints of a registered sex offender should also call the above number.

DISSEMINATION OF REGISTRY INFORMATION TO SCHOOLS

Quarterly or on request, the central registry will provide to the superintendent of public instruction a list of all registered juvenile sex offenders and adult sex offenders under the age of 21, with the address, date of birth, and adjudicated delinquency of each offender listed. The superintendent subsequently will notify a school district or private school regarding the enrollment of a registered juvenile sex offender.

The lists will include the cautionary statement that must be included with any further distribution (secondary dissemination). See Appendix A for the text of the cautionary statement.

The superintendent will also notify the school district or private school of the offender's probationary status or treatment status, if known.

PUBLIC ACCESS TO REGISTRY INFORMATION

Any person may inquire on a named individual or request a list of registered juvenile sex offenders by name, city, zip code or county. This is accomplished with no fee when accessing the Idaho State Police Internet site at www.isp.state.id.us with links to the Sex Offender Registry and Violent Sexual Predator List. The web site includes photos and mapping capabilities of all offenders.

A person may also inquire by submitting a completed SOR-4 form to the central registry or a local sheriff. The central registry and sheriff have 10 days to respond to the submitted SOR-4. The central registry and sheriffs are authorized to charge \$5 for each inquiry on an individual and each request for a list of offenders. The fees received by the sheriff shall be used to defray the cost of local sex offender registration and administration of the public access requirements. See Appendix A for a copy of the SOR-4 form.

Any person may also request a photograph of a registered juvenile sex offender from the central registry. This request must be made using the SOR-5 form. ISP will charge \$5 for each individual photograph. See Appendix A for a copy of the SOR-5 form.

Information provided in response to a public request is limited to the offender's name, address, aliases, date of birth, crime(s) of conviction, place(s) of conviction, and status as a violent sexual predator. All responses to individual inquiries or requests for lists will include a cautionary statement concerning misuse of the information. See Appendix A for its text. Further distribution of registry information or lists must include this cautionary statement.

The central registry will retain original copies of submitted SOR-4 and SOR-5 forms for a period of two years. The sheriff must also retain copies of SOR-4 forms for a period of two years from the date of submission. These forms are available for inspection only by law enforcement and criminal justice agencies.

EXEMPTION FROM CIVIL LIABILITY

Section 18-8412 provides the following exemptions from civil liability:

- No person or governmental entity, other than those specifically charged in this chapter with a duty to collect information under this chapter regarding registered sexual offenders, has a duty to inquire, investigate or disclose any information regarding registered sexual offenders.
- No person or governmental entity, other than those specifically charged in this chapter with an affirmative duty to provide public access to information regarding registered sexual offenders, shall be held liable for any failure to disclose any information regarding registered sexual offenders to any other person or entity.
- Every person or governmental entity who, acting without malice or criminal intent, obtains or disseminates information under this chapter shall be immune from civil liability for any damages claimed as a result of such disclosures made or received.

PENALTIES FOR MISUSE OF REGISTRATION INFORMATION (VIGILANTISM)

It is the Legislature's intent that the juvenile sex offender registration program is a public safety program, not a punitive or correctional program. Any person who uses information from the registry to harm a registered sex offender commits a crime and is guilty of a misdemeanor, in addition to any other punishment for an associated crime(s).

All information relating to individual juvenile sex offenders released by the central registry or sheriffs will include a cautionary statement warning of misuse of the information and harassment of registered sex offenders.

APPENDIX A

IDAHO SEX OFFENDER REGISTRY
NOTIFICATION AND REGISTRATION (page 1 of 2)
(Both pages 1 and 2 must be completed on EVERY registration)
(Please Type or Print Legibly - Black Ink)

**CENTRAL REGISTRY
USE ONLY**

Section I Offender Information (Mark appropriate box of fill in information)

1. Adult <input type="checkbox"/>	2. Registration Type (check one) New <input type="checkbox"/> Quarterly <input type="checkbox"/> Annual <input type="checkbox"/> Dual County <input type="checkbox"/> Notification <input type="checkbox"/> Address Change <input type="checkbox"/> Status Change <input type="checkbox"/> County Move <input type="checkbox"/> Out of State Move <input type="checkbox"/>	3. List all states where previously registered. State(s): _____ None <input type="checkbox"/>	4. Idaho Sex Offender Registry # 5. Designated as Violent Sexual Predator: Yes <input type="checkbox"/> No <input type="checkbox"/>
6. Name: Last _____ First _____ Middle _____			7. Date of Birth MM/DD/YYYY _____
8. Place of Birth (Country/State): _____			
9. Sex: _____	10. Race: _____	11. Height: _____	12. Weight: _____
		13. Eyes: _____	14. Hair: _____
15. SSN: _____			
16. Aliases: _____			
17. Scars/Marks/Tattoos: _____			
18. Offender Physical Address:(Full street address or description of residence). Street _____ City _____ ST _____ Zip _____			
19. Offender Mailing Address:(Full street address or PO Box) Street _____ City _____ ST _____ Zip _____			20. County: _____
			21. Telephone: Home () Cell ()
22. How long has offender been at above address: _____		23. If moving to above address, give effective date of move: _____	
24. Occupation: Employer: _____ Employer address: Street _____ City _____ ST _____ Zip _____			
25. Enrolled in a school, college or university? No <input type="checkbox"/> Yes <input type="checkbox"/> (If yes, must give the name and address of the school) Name _____ Institution address: Street _____ City _____ ST _____ Zip _____			
26. Current Status: On Probation <input type="checkbox"/> On Parole <input type="checkbox"/> No supervision <input type="checkbox"/>		27. Release date from incarceration: _____	28. Probation/Parole Officer: _____

Section II Offense Information (Use additional form if necessary)

29. Sex Offense listed in Sec.18-8304, I.C. or equivalent offense committed in another state or jurisdiction ,or by a juvenile. (Literal and statute number if known)	30. Location of offense/crime (state) and date committed. (MM/DD/YYYY)	31. County and state of court where offender pled guilty or was found guilty. (Include case number)	32. Offender's name at time of guilty plea or verdict.	33. Name & location of hospital, jail, or penal facility.

34. Registering Offender Signature (This signature acknowledges the information above to be true) Date: _____		CENTRAL REGISTRY USE ONLY <i>(Initial and date when processed)</i> Photo Processed by: _____ Registration Processed by: _____ Verification Processed by: _____
35. Signature of Juvenile's Parent or Guardian: Date: _____		
Original of both pages 1 and 2 to: Idaho State Police P.O. Box 700 Meridian ID 83680-0700	36. Notifying / Registering Official (Print): 37. Official's Signature: _____ Date: _____	
Copies to: Agency File & Offender	38. Notifying/ Registering Agency/ Address: _____	

**IDAHO SEX OFFENDER REGISTRY
NOTIFICATION AND REGISTRATION
(Both pages 1 and 2 must be completed on EVERY registration)**

The notifying or registering official in consultation with the registering offender should complete this form.

Form Instructions

Administration

The purpose of this form is to provide notice and registration established in Section 18-8306, Idaho Code, for adult offenders and in Sections 18-8405 and 18-8406, Idaho Code, for juvenile offenders. It is intended for use (1) by the courts, when a person is convicted of a qualifying offense without a sentence of incarceration and (2) by the Department of Correction (DOC), Department of Juvenile Corrections (DOJC), or a correctional facility when the person is being released from incarceration relating to a qualifying offense, and the county sheriff's offices who are responsible for the registration of offenders required to register.

A person required to register as a sex offender under Chapter 83 or Chapter 84, Title 18, Idaho Code, is obligated to receive and acknowledge the notice of duty to register. Failure to provide information for the form or giving false information is a criminal offense. Information regarding the offenses that obligate a person to register as a sex offender is available in a reference manual published by Idaho State Police (ISP). To request a copy of the reference manual or ask a question regarding the completion of this form, you may call the ISP's Bureau of Criminal Identification at (208) 884-7305.

Section I Instructions (numbers reference specific blocks or data fields)

1. Check whether the person is registering as an adult under Chap. 83 or as a juvenile under Chap. 84 of Title 18.
2. Check the appropriate box for the type of registration or notification.
3. Check if the offender has been registered in another states, specify the states where the offender was registered.
4. If previously registered in Idaho, note the registration number.
5. Indicate if the Sexual Offender Classification Board has designated the offender as a violent sexual predator.
6. Provide offender's complete name.
7. Provide offender's date of birth in the eight-digit format (for example: 01/15/1956).
8. List the State, territorial possession, Canadian province, or country of birth.
9. Provide offender's gender by either "F" (female) or "M" (male).
10. Indicate race by one of the following: A = Asian; B = Black; I = American Indian; U = Unknown; W = White.
11. Height should be expressed in feet and inches (for example: 6' 2").
12. Weight should be expressed in pounds.
13. Indicate eye color(s).
14. Indicate hair color or if the person is bald.
15. Provide offender's social security number(s).
16. Provide any alias (es) the offender is known to use.
17. List identifying scars, marks, tattoos deformities, amputations, etc.
18. Provide physical address or location description of where offender resides.
19. Provide mailing address, if different from physical residence.
20. Provide county of residence.
21. Provide telephone number of current or intended residence and cell phone number, if applicable.
22. Indicate how long offender has resided at the physical residence.
23. If providing a new residence, indicate effective date of the move.
24. Provide occupation and current employer's name and the employer's address.
25. Indicate if enrolled in any educational institution, if enrolled provide name and location.
26. Indicate your current correctional status.
27. Provide the date released from prison/jail.
28. Provide the name of offender's probation/parole officer, if appropriate.

Section II Instructions

29. Provide description and code citation for the qualifying offense(s) relating to registration.
30. Provide location and date of offense listed.
31. Provide county and state of court of conviction and the court case number, if available.
32. Provide the name used by the offender at the time of conviction.
33. Provide the name and location of any hospital, jail, or penal facility where the offender was housed in regard to conviction.
34. Registering offender must sign and date form.
35. If registering offender is a juvenile, the juvenile's parent or guardian must sign and date form.
36. Provide the notifying or registering agency official's printed name.
37. The notifying or registering agency official must sign and date form.
38. Provide the notifying or registering agency name and address.

IDAHO SEX OFFENDER REGISTRY
NOTIFICATION AND REGISTRATION (page 2 of 2)
 (Both pages 1 and 2 must be completed on EVERY registration)
 (Please Type or Print Legibly - Black Ink)
Offender Information (as appears on page 1)

**CENTRAL REGISTRY
USE ONLY**

Section III

39. Adult ____ Juvenile ____	40. Name: _____ <div style="display: flex; justify-content: space-between; font-size: small;"> Last First Middle </div>	41.. Date of Birth: _____ MM/DD/YYYY	42. SSN: _____
---------------------------------	---	---	----------------

Section IV

Registration Requirements Notification

Pursuant to Chapter 83 and Chapter 84, Title 18, Idaho Code: (Offender must initial each statement, sign and date)

1. ____ You must, within two (2) working days of coming into a county to establish residence or temporary domicile, register in person with the sheriff of the county, and shall thereafter register annually in person within five (5) days of the mailing date of the registration notice, **OR if designated as a Violent Sexual Predator** must register quarterly in person within five (5) days of the mailing date of the registration notice.
2. ____ You must, within two (2) working days of changing your physical residence or mailing address within a county, provide written notice of the new address in person to the sheriff of the county where you are required to register.
3. ____ If you move to another State, you must provide **written notice of the new address to the Idaho State Police within five (5) days after the move**. You must register in the other State within the time period that its statutes require, but not to exceed ten (10) days. If you work or attend school in another state, you may also be required to register in that state as well as in Idaho.
4. ____ You must, if a resident of another state, within two (2) working days of becoming employed by or enrolled at an Idaho institution of higher learning, register in person with the sheriff of the county where employed or enrolled in such an institution.
5. ____ You must, whether resident or non-resident, within two (2) working days of changing employment or enrollment status at an Idaho institution of higher learning, provide written notice in person to the sheriff of the county of the employment or enrollment status change.
6. ____ Between annual registrations, all offenders are required to respond every four months to the department's address verification notice within seven (7) days of its mailing; or **if designated as a Violent Sexual Predator** must respond monthly to the address verification notice.
7. ____ An adult offender subject to registration who fails to register or provide any notice required by law is guilty of a criminal offense punishable by imprisonment in the state prison system for a period not to exceed ten (10) years and by a fine not to exceed five thousand dollars.
8. ____ A juvenile offender subject to juvenile registration who fails to register or provide any notice required by law is guilty of a misdemeanor criminal offense. The parent or guardian of a juvenile offender may be charged with the misdemeanor offense of failure to supervise a child if the juvenile offender fails to register or provide required notice.
9. ____ If you are on probation or other supervised release or suspension from incarceration at the time of a fail to register violation, the probation or supervised release shall be revoked and the penalty for violating the registry law shall be served consecutively to the offender's original sentence.
10. ____ An offender (adult or juvenile) who accepts employment in any day care center, group day care facility or family day care home, as those terms are defined in chapter 11, title 39, Idaho Code, or to be upon or to remain on the premises of a day care center, group day care facility or family day care home while children are present, other than to drop off or pick up the offender's child or children is guilty of a felony as provided in section 18-8327, Idaho Code.
11. ____ An adult offender who is required to register is restricted on access to any school building or school grounds as outlined in section 18-8329, Idaho Code. Any violation of that section is a misdemeanor.
12. ____ An adult offender who is required to register must adhere to the restrictions on group dwellings outlined in section 18-8331, Idaho Code. Any violation of that section is a misdemeanor.
13. ____ An offender who does not provide a physical residence address at the time of registration, must report in person, once every seven (7) days to the sheriff of the county in which he resides.

I have read or have had read to me the above requirements of the Idaho Sex Offender Registration. It has been explained to me and I understand my duty to register and that failure to do so is a criminal offense.

Signature of Registering Offender: _____ Date: _____

Signature of Juvenile's Parent or Guardian: _____ Date: _____

Registering Official: (print)	Official's Signature/Date:
-------------------------------	----------------------------

IDAHO SEX OFFENDER REGISTRY
NOTIFICATION AND REGISTRATION
(Both pages 1 and 2 must be completed on EVERY registration)

This form should be completed by the registering offender and witnessed by the notifying or registering official

Form Instructions

Section III Instructions *(These fields should match those on page one of this registration)*

- 38. Mark if this is an adult or juvenile registration *(Should match #1 on page 1)*.
- 39. Provide offender's complete name *(Should match #6 on page 1)*.
- 40. Provide offender's date of birth in the six-digit format (for example: 01/15/56) *(Should match #7 on page 1)*.
- 41. Provide offender's social security number(s). *(Should match #15 on page 1)*.

Section IV Instructions

An adult offender must read and initial items 1, 2, 3, 4, 5, 6, 7, 9, 10, 11, 12, and 13 and then sign the statement. A juvenile offender must read and initial items 1, 2, 3, 4, 5, 6, 8, 9, 10 and 13 and then sign the statement. A juvenile's parent or guardian must also sign the statement.

Distribution of Forms (pages 1 & 2): The sex offender registration law requires the notifying or registering official to forward the original copies to the Idaho State Police within three (3) working days of its completion. **When the forms are used as a new registration, annual registration, quarterly registration, county move, or address change, a complete set of fingerprints and a photo must accompany the forms.**

The copies should be kept in the agency file and one copy shall be provided to the registering offender.

IDAHO SEX OFFENDER REGISTRY**Homeless – Location Verification**

(Please Type or Print Legibly - Black Ink)

**CENTRAL REGISTRY
USE ONLY****Section I****Offender Information (Mark appropriate box of fill in information)**

1. Adult <input type="checkbox"/> Juvenile <input type="checkbox"/>	2. Name: Last First Middle	3. Idaho Sex Offender Registry # 4. Designated as Violent Sexual Predator: Yes <input type="checkbox"/> No <input type="checkbox"/>
5. Date of Birth <input type="text"/> MM/DD/YYYY		6. SSN: <input type="text"/>
7. Offender Physical Address: (Address and/or Detailed description of location). Street <input type="text"/> City <input type="text"/> ST <input type="text"/> Zip <input type="text"/>		
8. Registering Offender Signature (This signature acknowledges the information above to be true)		Date: <input type="text"/>
9. Signature of Juvenile's Parent or Guardian:		Date: <input type="text"/>
Original to: Idaho State Police P.O. Box 700 Meridian ID 83680-0700	10. Notifying /Registering Official (Print): 11. Official's Signature:	Date: <input type="text"/>
	12. Notifying/ Registering Agency/Address:	CENTRAL REGISTRY USE ONLY (Initial and date when processed) Verification Processed by: <input type="text"/>
Copies to: Agency File & Offender		

Form SOR- Homeless Verification

July 2009

IDAHO SEX OFFENDER REGISTRY**Homeless – Location Verification**

(Please Type or Print Legibly - Black Ink)

Section I**Offender Information (Mark appropriate box of fill in information)**

1. Adult <input type="checkbox"/> Juvenile <input type="checkbox"/>	2. Name: Last First Middle	3. Idaho Sex Offender Registry # 4. Designated as Violent Sexual Predator: Yes <input type="checkbox"/> No <input type="checkbox"/>
5. Date of Birth <input type="text"/> MM/DD/YYYY		6. SSN: <input type="text"/>
7. Offender Physical Address: (Address and/or Detailed description of location). Street <input type="text"/> City <input type="text"/> ST <input type="text"/> Zip <input type="text"/>		
8. Registering Offender Signature (This signature acknowledges the information above to be true)		Date: <input type="text"/>
9. Signature of Juvenile's Parent or Guardian:		Date: <input type="text"/>
Original to: Idaho State Police P.O. Box 700 Meridian ID 83680-0700	10. Notifying /Registering Official (Print): 11. Official's Signature:	Date: <input type="text"/>
	12. Notifying/ Registering Agency/Address:	CENTRAL REGISTRY USE ONLY (Initial and date when processed) Verification Processed by: <input type="text"/>
Copies to: Agency File & Offender		

Form SOR- Homeless Verification

July 2009

FBI Fingerprint Card FD-249 (front)

LEAVE BLANK		CRIMINAL		(STAPLE HERE)				LEAVE BLANK			
STATE USAGE		STATE USAGE		<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>			
		NFP SECOND SUBMISSION		APPROXIMATE CLASS		AMPUTATION		SCAR			
SIGNATURE OF PERSON FINGERPRINTED (Signature of person registering)				SOCIAL SECURITY NO. 123-45-6789				LEAVE BLANK			
ALIASES/MAIDEN LAST NAME, FIRST NAME, MIDDLE NAME, SUFFIX				LAST NAME, FIRST NAME, MIDDLE NAME, SUFFIX Public, Carl C.							
FBI NO.	STATE IDENTIFICATION NO.	DATE OF BIRTH MM DD YY 05-24-1956		SEX M	RACE W	HEIGHT 6'1"	WEIGHT 250	EYES bro	HAIR bro		
(Provide clear fingerprint impressions)											
1. R. THUMB		2. R. INDEX		3. R. MIDDLE		4. R. RING		5. R. LITTLE			
6. L. THUMB		7. L. INDEX		8. L. MIDDLE		9. L. RING		10. L. LITTLE			
LEFT FOUR FINGERS TAKEN SIMULTANEOUSLY				L. THUMB		R. THUMB		RIGHT FOUR FINGERS TAKEN SIMULTANEOUSLY			

FBI Fingerprint Card FD-249 (back)

FEDERAL BUREAU OF INVESTIGATION, UNITED STATES DEPARTMENT OF JUSTICE WASHINGTON, D.C. 20537			
<small>PRIVACY ACT OF 1974 (P.L. 93-579) REQUIRES THAT FEDERAL, STATE, OR LOCAL AGENCIES INFORM INDIVIDUALS WHOSE SOCIAL SECURITY NUMBER IS REQUESTED WHETHER SUCH DISCLOSURE IS MANDATORY OR VOLUNTARY, BASIS OF AUTHORITY FOR SUCH SOLICITATION, AND USES WHICH WILL BE MADE OF IT.</small>			
JUVENILE FINGERPRINT SUBMISSION YES <input type="checkbox"/> (Indicate if registering as a juvenile or adult)	DATE OF ARREST MM DD YY	ORI CONTRIBUTOR ADDRESS (Please include registering agency info) REPLY YES <input type="checkbox"/> DESIRED?	
SEND COPY TO: (ENTER ORI)	DATE OF OFFENSE MM DD YY	PLACE OF BIRTH (STATE OR COUNTRY) Boise, Idaho	COUNTRY OF CITIZENSHIP USA
MISCELLANEOUS NUMBERS	SCARS, MARKS, TATTOOS, AND AMPUTATIONS (Please list)		
	RESIDENCE/COMPLETE ADDRESS (provide physical address) 123 Any Street		CITY Boise
OFFICIAL TAKING FINGERPRINTS (NAME OR NUMBER)	LOCAL IDENTIFICATION/REFERENCE		STATE ID
			PHOTO AVAILABLE? YES <input checked="" type="checkbox"/>
EMPLOYER: IF U.S. GOVERNMENT, INDICATE SPECIFIC AGENCY. IF MILITARY, LIST BRANCH OF SERVICE AND SERIAL NO. (Please include)		OCCUPATION	
CHARGE/CITATION 1.		DISPOSITION 1.	
2.		2.	
SEX OFFENDER REGISTRATION		RELEASED	
3.		3.	
ADDITIONAL		ADDITIONAL	
ADDITIONAL INFORMATION/BASIS FOR CAUTION		STATE BUREAU STAMP	
FD-249 (Rev. 12-1-94)		☆ U.S. GPO: 1998 432-177 / 50051	

CHECK LIST FOR LOCAL/ANNUAL REGISTRATION

IDAHO SEX OFFENDER REGISTRATION PROGRAM

	NEW REGISTRATION OR ANNUAL RENEWAL OF REGISTRATION	COUNTY TO COUNTY MOVE (currently registered in another county)	CHANGE OF ADDRESS AND STATUS (currently registered in this county)
Notification and Registration Page 1 and 2	<ul style="list-style-type: none"> • Offender completes and signs • Local official reviews for completeness and signs • COPY DISTRIBUTION White to ISP Yellow to agency file Pink to offender 	<ul style="list-style-type: none"> • Offender completes and signs. • Local official reviews for completeness and signs • COPY DISTRIBUTION-Same 	<ul style="list-style-type: none"> • Offender completes and signs. • Local official reviews for completeness and signs • COPY DISTRIBUTION-Same
Fingerprints FBI FD-249	<ul style="list-style-type: none"> • Complete fingerprints are taken • DISTRIBUTION 1 set to ISP 	<ul style="list-style-type: none"> • Complete fingerprints are taken • DISTRIBUTION 1 set to ISP 	None
PHOTO	<ul style="list-style-type: none"> • 2 Photos are made • DISTRIBUTION 1 is sent to ISP 1 is for agency file 	<ul style="list-style-type: none"> • 2 Photos are made • DISTRIBUTION-Same 	<ul style="list-style-type: none"> • None

CAUTIONARY STATEMENT

The following warning appears on responses to requests from the public.

WARNING

This information is made available for the purpose of protecting the public. It is not to be used for the purpose of harassing or intimidating anyone. A person who uses registry information to commit a criminal act against another person is subject to arrest and prosecution under Section 18-8326, Idaho Code.

In addition, please consider the following limitations when using information from the Idaho Sex Offender Registry.

The registry does not contain information on all sex offenders. The information is limited by the effective date of the registry (July 1, 1993) and to those offenders who have been convicted of a crime specified in the registry law. The registry does not contain information on those individuals whose illegal sexual behaviors have not come to the attention of the authorities. The Idaho State Police attempts to assure that the registry is accurate and current. Although the registry database is updated on a regular basis, the information can change quickly. You are cautioned, therefore, that the information provided is date sensitive and only reflects that which has been received and subsequently automated by the department.

If you have questions about the registry and the information provided, you may call the Idaho State Police, Bureau of Criminal Identification at 884-7305.

Secondary dissemination of registry information requires the inclusion of the above warning and cautionary statements.

APPENDIX B

TITLE 18-CRIMES AND PUNISHMENTS

CHAPTER 83- SEXUAL OFFENDER REGISTRATION NOTIFICATION AND COMMUNITY RIGHT-TO-KNOW ACT

Including amendments through the 2009 legislative session

18-8301. SHORT TITLE. This chapter shall be known and may be cited as the "Sexual Offender Registration Notification and Community Right-to-Know Act."

18-8302. FINDINGS. The legislature finds that sexual offenders present a significant risk of reoffense and that efforts of law enforcement agencies to protect their communities, conduct investigations and quickly apprehend offenders who commit sexual offenses are impaired by the lack of current information available about individuals who have been convicted of sexual offenses who live within their jurisdiction. The legislature further finds that providing public access to certain information about convicted sexual offenders assists parents in the protection of their children. Such access further provides a means for organizations that work with youth or other vulnerable populations to prevent sexual offenders from threatening those served by the organizations. Finally, public access assists the community in being observant of convicted sexual offenders in order to prevent them from recommitting sexual crimes. Therefore, this state's policy is to assist efforts of local law enforcement agencies to protect communities by requiring sexual offenders to register with local law enforcement agencies and to make certain information about sexual offenders available to the public as provided in this chapter.

18-8303. DEFINITIONS. As used in this chapter: (1) "Aggravated offense" means any of the following crimes: [18-1506A](#) (ritualized abuse of a child); [18-1508](#) (lewd conduct); [18-4003\(d\)](#) (murder committed in the perpetration of rape); [18-4502](#) (first-degree kidnapping committed for the purpose of rape, committing an infamous crime against nature, committing any lewd and lascivious act upon any child under the age of sixteen years or for purposes of sexual gratification or arousal); [18-4503](#) (second degree kidnapping where the victim is an unrelated minor child and the kidnapping is committed for the purpose of rape, committing an infamous crime against nature, committing any lewd and lascivious act upon any child under the age of sixteen years or for purposes of sexual gratification or arousal); [18-6101](#) (rape, but excluding section [18-6101\(1\)](#) where the victim is at least twelve years of age or the defendant is eighteen years of age or younger); [18-6108](#) (male rape); [18-6608](#) (forcible sexual penetration by use of a foreign object); [18-8602\(1\)](#) (sex trafficking); and any other offense set forth in section [18-8304](#), Idaho Code, if at the time of the commission of the offense the victim was below the age of thirteen years.

(2) "Board" means the sexual offender classification board described in section 18-8312, Idaho Code.

(3) "Central registry" means the registry of convicted sexual offenders maintained by the Idaho state police pursuant to this chapter.

(4) "Certified evaluator" means either a psychiatrist licensed by this state pursuant to chapter 18, title 54, Idaho Code, or a master's or doctoral level mental health professional

licensed by this state pursuant to chapter 23, chapter 32, or chapter 34, title 54, Idaho Code. Such person shall have by education, experience and training, expertise in the assessment and treatment of sexual offenders, and such person shall meet the qualifications and shall be approved by the board to perform psychosexual evaluations in this state, as described in section 18-8314, Idaho Code.

(5) "Department" means the Idaho state police.

(6) "Employed" means full-time or part-time employment exceeding ten (10) consecutive working days or for an aggregate period exceeding thirty (30) days in any calendar year, or any employment which involves counseling, coaching, teaching, supervising or working with minors in any way regardless of the period of employment, whether such employment is financially compensated, volunteered or performed for the purpose of any government or education benefit.

(7) "Incarceration" means committed to the custody of the Idaho department of correction or department of juvenile corrections, but excluding cases where the court has retained jurisdiction.

(8) "Offender" means an individual convicted of an offense listed and described in section 18-8304, Idaho Code, or a substantially similar offense under the laws of another state or in a federal, tribal or military court or the court of another country.

(9) "Offense" means a sexual offense listed in section 18-8304, Idaho Code.

(10) "Predatory" means actions directed at an individual who was selected by the offender for the primary purpose of engaging in illegal sexual behavior.

(11) "Psychosexual evaluation" means an evaluation which specifically addresses sexual development, sexual deviancy, sexual history and risk of reoffense as part of a comprehensive evaluation of an offender.

(12) "Recidivist" means an individual convicted two (2) or more times of any offense requiring registration under this chapter.

(13) "Residence" means the offender's present place of abode.

(14) "Student" means a person who is enrolled on a full-time or part-time basis, in any public or private educational institution, including any secondary school, trade or professional institution or institution of higher education.

(15) "Violent sexual predator" means a person who has been convicted of an offense listed in section 18-8314, Idaho Code, and who has been determined to pose a high risk of committing an offense or engaging in predatory sexual conduct.

18-8304. APPLICATION OF CHAPTER.

(1) The provisions of this chapter shall apply to any person who:

(a) On or after July 1, 1993, is convicted of the crime, or an attempt, a solicitation, or a

conspiracy to commit a crime provided for in section [18-909](#) (assault with attempt to commit rape, infamous crime against nature, or lewd and lascivious conduct with a minor, but excluding mayhem, murder or robbery), [18-911](#) (battery with attempt to commit rape, infamous crime against nature, or lewd and lascivious conduct with a minor, but excluding mayhem, murder or robbery), [18-919](#) (sexual exploitation by a medical care provider), [18-1505B](#) (sexual abuse and exploitation of a vulnerable adult), [18-1506](#) (sexual abuse of a child under sixteen years of age), [18-1506A](#) (ritualized abuse of a child), [18-1507](#) (sexual exploitation of a child), [18-1507A](#) (possession of sexually exploitative material for other than a commercial purpose), [18-1508](#) (lewd conduct with a minor child), [18-1508A](#) (sexual battery of a minor child sixteen or seventeen years of age), [18-1509A](#) (enticing a child over the internet), [18-4003\(d\)](#) (murder committed in perpetration of rape), [18-4116](#) (indecent exposure, but excluding a misdemeanor conviction), [18-4502](#) (first degree kidnapping committed for the purpose of rape, committing the infamous crime against nature or for committing any lewd and lascivious act upon any child under the age of sixteen, or for purposes of sexual gratification or arousal), [18-4503](#) (second degree kidnapping where the victim is an unrelated minor child), [18-5609](#) (inducing person under eighteen years of age into prostitution), [18-6101](#) (rape, but excluding [18-6101](#) 1. where the defendant is eighteen years of age or younger or where the defendant is exempted under subsection (4) of this section), [18-6108](#) (male rape), [18-6110](#) (sexual contact with a prisoner), [18-6602](#) (incest), [18-6605](#) (crime against nature), [18-6608](#) (forcible sexual penetration by use of a foreign object), upon a second or subsequent conviction under [18-6609](#) (video voyeurism) or [18-8602\(1\)](#), Idaho Code, (sex trafficking).

(b) On or after July 1, 1993, has been convicted of any crime, an attempt, a solicitation or a conspiracy to commit a crime in another state, territory, commonwealth, or other jurisdiction of the United States, including tribal courts and military courts, that is substantially equivalent to the offenses listed in subsection (1)(a) of this section and enters the state to establish permanent or temporary residence.

(c) Has been convicted of any crime, an attempt, a solicitation or a conspiracy to commit a crime in another state, territory, commonwealth, or other jurisdiction of the United States, including tribal courts and military courts, that is substantially equivalent to the offenses listed in subsection (1)(a) of this section and was required to register as a sex offender in any other state or jurisdiction when he established permanent or temporary residency in Idaho.

(d) Pleads guilty to or has been found guilty of a crime covered in this chapter prior to July 1, 1993, and the person, as a result of the offense, is incarcerated in a county jail facility or a penal facility or is under probation or parole supervision, on or after July 1, 1993.

(e) Is a nonresident regularly employed or working in Idaho or is a student in the state of Idaho and was convicted, found guilty or pleaded guilty to a crime covered by this chapter and, as a result of such conviction, finding or plea, is required to register in his state of residence.

(2) An offender shall not be required to comply with the registration provisions of this chapter while incarcerated in a correctional institution of the department of correction, a county jail facility, committed to the department of juvenile corrections or committed to a mental health institution of the department of health and welfare.

(3) A conviction for purposes of this chapter means that the person has pled guilty or has been found guilty, notwithstanding the form of the judgment or withheld judgment.

(4) When a defendant is convicted of rape under section [18-6101](#) 1., Idaho Code, and at the time of the offense the defendant is nineteen (19) or twenty (20) years of age and not more than three (3) years older than the victim of the rape, the court may order

that the defendant is exempt from the requirements of this chapter upon a finding by the court that:

- (a) All parties have stipulated to the exemption; or
- (b) The defendant has demonstrated by clear and convincing evidence that he is not a risk to commit another crime identified in subsection (1) of this section and in the case there were no allegations by the victim of any violation of section [18-6101](#) 2. through 7., Idaho Code.

18-8305. CENTRAL REGISTRY -- NOTICE TO AGENCIES. (1) The department shall establish and maintain a central sexual offender registry separate from other records maintained by the department. The registry shall include, but is not limited to, fingerprints, photographs, and other information collected from submitted forms and other communications relating to notice of duty to register, sexual offender registration and notice of address change.

(2) Upon receipt of information pursuant to section 18-8307, Idaho Code, the department shall notify the law enforcement agencies having jurisdiction where the offender resides or will reside, enter information in the central registry, and transmit the appropriate information as required by the federal bureau of investigation for inclusion in the national sexual offender registry. Upon receipt of a notice of an offender changing residence to another state, the department shall notify the central registry of the state to which the offender is moving. The department shall adopt rules relating to providing notice of address changes to law enforcement agencies, developing forms, operating the central registry, reviewing and correcting records, and expunging records of persons who are deceased, whose convictions have been reversed or who have been pardoned, and those for whom an order of Expungement or relief from registration has been entered pursuant to section 18-8310, Idaho Code.

(3) The department shall develop and distribute to appropriate agencies the standardized forms necessary for the administration of the registry and shall provide appropriate agencies with instructions for completing and submitting the forms. The attorney general shall approve the forms and instructions prior to distribution.

18-8306. NOTICE OF DUTY TO REGISTER AND INITIAL REGISTRATION. (1) When a person is sentenced for an offense identified in section 18-8304, Idaho Code, the prosecuting attorney shall seek and the court shall order a designated law enforcement agency to immediately fingerprint that person unless the person has been fingerprinted and photographed previously for the same offense. Fingerprints and photographs may be taken at the jail or correctional facility to which the person is remanded or sentenced. The fingerprints and photographs taken pursuant to this subsection shall be submitted to the department as provided in section 67-3005, Idaho Code.

(2) A person convicted of an offense identified in section 18-8304, Idaho Code, and released on probation without a sentence of incarceration in a county jail or correctional facility, including release pursuant to a withheld judgment or release from any mental institution, shall be notified by the sentencing court of the duty to register pursuant to the provisions of this chapter. The written notification shall be a form provided by the department and approved by the attorney general and shall be signed by the defendant.

The court shall retain one (1) copy, provide one (1) copy to the offender, and submit one (1) copy to the central registry within three (3) working days of release.

(3) With respect to an offender convicted of a sexual offense identified in section 18-8304, Idaho Code, and sentenced to a period of incarceration in a jail or correctional facility and subsequently released, placed on probation, or paroled, the department of correction or jail shall provide, prior to release from confinement, written notification of the duty to register. The written notification shall be a form provided by the department and approved by the attorney general and shall be signed by the offender. The department of correction or jail shall retain one (1) copy, provide one (1) copy to the offender, and submit one (1) copy to the central registry within three (3) working days of release.

(4) The sheriff of each county shall provide written notification, on a form provided by the Idaho transportation department and approved by the attorney general, of the registration requirements of this chapter to any person who enters this state from another jurisdiction and makes an application for an identification card or a license to operate a motor vehicle in this state. The written notice shall be signed by the person and one (1) copy shall be retained by the sheriff's office and one (1) copy shall be provided to the person.

(5) Notification of the duty to register as set forth in subsections (2) and (3) of this section shall constitute an initial registration for the purpose of establishing a record in the central registry.

(6) The notification form provided by the department and approved by the attorney general shall:

- (a) Explain the duty to register, the procedure for registration and penalty for failure to comply with registration requirements;
- (b) Inform the offender of the requirement to provide notice of any change of address within Idaho or to another state within five (5) working days of such change;
- (c) Inform the offender of the requirement to register in a new state within ten (10) days of changing residence to that state; and
- (d) Obtain from the offender and agency or court, information required for initial registration in the central registry, as prescribed by rules promulgated by the department.

(7) The official conducting the notice and initial registration shall ensure that the notification form is complete, that the offender has read and signed the form, and that a copy is forwarded to the central repository within the required time period.

(8) Information required for initial registration in the central registry shall include, but is not limited to: name and aliases of the offender; social security number; physical descriptors; current address or physical description of current residence; offense for which convicted, sentence and conditions of release; treatment or counseling received; and risk assessment or special category of offender.

(9) No person subject to registration shall willfully furnish false or misleading information when complying with registration and notification requirements of this chapter.

18-8307. REGISTRATION. (1) Registration shall consist of a form provided by the department and approved by the attorney general, which shall be signed by the offender and shall require the following information about the offender:

- (a) Name and all aliases which the person has used or under which the person has been known;
- (b) A complete description of the person including the date of birth and social security number;
- (c) Name of each offense enumerated in section 18-8304, Idaho Code, of which the person was convicted, where each offense was committed, where the person was convicted of each offense, and the name under which the person was convicted of each offense;
- (d) The name and location of each hospital, jail or penal institution to which the person was committed for each offense covered under this chapter;
- (e) School or college enrollment; and
- (f) Address or physical description of current residence and place of employment.

(2) At the time of registration, the sheriff shall obtain a photograph and fingerprints, in a manner approved by the department, and may require the offender to provide full palm print impressions of each hand. A violent sexual predator shall pay a fee of ten dollars (\$10.00) to the sheriff per registration. All other offenders shall pay an annual fee of forty dollars (\$40.00) to the sheriff for registration. The sheriff may waive the registration fee if the violent sexual predator or other offender demonstrates indigency. The fees collected under this section shall be used by the sheriff to defray the costs of violent sexual predator and other sexual offender registration and verification under section 18-8308, Idaho Code.

(3) The sheriff shall forward the completed and signed form, photograph and fingerprints to the department within three (3) working days of the registration.

- (a) The official conducting the initial registration shall ensure that the notification form is complete and that the offender has read and signed the form.
- (b) No person subject to registration shall furnish false or misleading information when complying with registration and notification requirements of this chapter.

(4) (a) Within two (2) working days of coming into any county to establish permanent or temporary residence, an offender shall register with the sheriff of the county. The offender thereafter shall register annually, unless the offender is designated as a violent sexual predator, in which case the offender shall register with the sheriff every three (3) months as provided in this section. If the offender intends to reside in another state, the offender shall register in the other state within ten (10) days of moving to that state.

- (b) A nonresident required to register pursuant to section 18-8304(1)(e), Idaho Code, shall register with the sheriff of the county where employed or enrolled as a student within two (2) working days of the commencement of employment or enrollment as a student in an educational institution, provided that nonresidents employed in counseling, coaching, teaching, supervising or working with minors in any way, regardless of the period of employment, must register prior to the commencement of such employment.

(5) Registration shall be conducted as follows:

- (a) For violent sexual predators the department shall mail a nonforwardable notice of annual registration to the offender's last reported address within three (3) months following the last registration;
- (b) For all other sex offenders the department shall mail an annual, nonforwardable notice of registration to the offender's last reported address;
- (c) Within five (5) days of the mailing date of the notice, the offender shall appear in person at the office of the sheriff with jurisdiction for the purpose of completing the registration process;
- (d) If the notice is returned to the department as not delivered, the department shall inform the sheriff with whom the offender last registered of the returned notice.

(6) All written notifications of duty to register as provided herein shall include a warning that it is a felony as provided in section 18-8327, Idaho Code, for an offender to accept employment in any day care center, group day care facility or family day care home, as those terms are defined in chapter 11, title 39, Idaho Code, or to be upon or to remain on the premises of a day care center, group day care facility or family day care home while children are present, other than to drop off or pick up the offender's child or children.

18-8308. VERIFICATION OF ADDRESS.

(1) The address or physical residence of an offender designated as a violent sexual predator shall be verified by the department between registrations.

(a) The procedure for verification shall be as follows:

(i) The department shall mail a nonforwardable notice of address verification every thirty (30) days between registrations, to each offender designated as a violent sexual predator.

(ii) Each offender designated as a violent sexual predator shall complete, sign and return the notice of address verification form to the department within seven (7) days of the mailing date of the notice. If the notice of address verification is returned to the department as not delivered, the department shall, within five (5) days, notify the sheriff with whom the offender designated as a violent sexual predator last registered.

(iii) The sheriff shall verify the address of the offender by visiting the offender's residence once every six (6) months or, if the offender fails to comply with the provisions of paragraph (a)(ii) of this subsection, at any reasonable time to verify the address provided at registration.

(2) The address or physical residence of any sex offender not designated as a violent sexual predator shall be verified by the department between registrations.

(a) The procedure for verification shall be as follows:

(i) The department shall mail a nonforwardable notice of address verification every four (4) months between annual registrations.

(ii) Each offender shall complete, sign and return the notice of address verification form to the department within seven (7) days of the mailing date of the notice. If the notice of address verification is returned as not delivered, the department shall notify the sheriff within five (5) days and the sheriff shall visit the residence of the registered offender at any reasonable time to verify the address provided at registration.

(3) Any individual designated as a violent sexual predator shall be monitored with electronic monitoring technology for the duration of the individual's probation or parole period as set forth in section [20-219](#)(2), Idaho Code. Any person who, without authority, intentionally alters, tampers with, damages or destroys any electronic monitoring equipment required to be worn or used by a violent sexual predator shall be guilty of a felony.

[(4)](3) A sexual offender who does not provide a physical residence address at the time of registration shall report, in person, once every seven (7) days to the sheriff of the county in which he resides. Each time the offender reports to the sheriff, he shall complete a form provided by the department that includes the offender's name, date of birth, social security number and a detailed description of the location where he is residing. The sheriff shall visit the described location at least once each month to verify the location of the offender.

18-8309. CHANGE OF ADDRESS OR NAME. (1) If an offender changes address or actual residence, the offender shall provide written notice of the new address within two (2) working days after the change to the sheriff of the county where the offender is required to register. The notice shall be on a form provided by the department. Within three (3) working days after receipt of the notice, the sheriff shall forward a copy of the notice to the department.

(2) If an offender changes address to another state, the offender shall provide written notice of the new address within five (5) working days after the change to the department.

(3) An offender whose legal name is changed by marriage, judicial order or any other means shall provide written notice of the name change to the sheriff and the department within two (2) working days of the order, event or other occurrence.

18-8310. RELEASE FROM REGISTRATION REQUIREMENTS -- EXPUNGEMENT.

(1) Any person, other than a recidivist, an offender who has been convicted of an aggravated offense, or an offender designated as a violent sexual predator, may, after a period of ten (10) years from the date the person was released from incarceration or placed on parole, supervised release or probation, whichever is greater, petition the district court for a show cause hearing to determine whether the person shall be exempted from the duty to register as a sexual offender. In the petition the petitioner shall:

- (a) Provide clear and convincing evidence that the petitioner is not a risk to commit a new violation for any violent crime or crime identified in section [18-8304](#), Idaho Code;
- (b) Provide an affidavit indicating that the petitioner does not have a criminal charge pending nor is the petitioner knowingly under criminal investigation for any violent crime or crime identified in section [18-8304](#), Idaho Code;
- (c) Provide proof of service of such petition upon the county prosecuting attorney for the county in which the application is made and upon the central registry; and
- (d) Provide a certified copy of the judgment of conviction which caused the petitioner to report as a sexual offender.

(2) The district court may grant a hearing if it finds that the petition is sufficient. The court shall provide at least sixty (60) days' prior notice of the hearing to the petitioner, the county prosecuting attorney and the central registry. The central registry may appear or participate as a party.

(3) The court may exempt the petitioner from the reporting requirement only after a hearing on the petition in open court and only upon proof by clear and convincing evidence and upon written findings of fact and conclusions of law by the court that:

- (a) The court has reviewed the petitioner's criminal history and has determined that petitioner is not a recidivist, has not been convicted of an aggravated offense or has not been designated as a violent sexual predator; and

(b) The petitioner is not a risk to commit a new violation for any violent crime or crime identified in section [18-8304](#), Idaho Code.

(4) Concurrent with the entry of any order exempting the petitioner from the reporting requirement, the court may further order that any information regarding the petitioner be expunged from the central registry.

18-8311. PENALTIES. (1) An offender subject to registration who fails to register, verify his address, or provide any notice as required by this chapter shall be guilty of a felony and shall be punished by imprisonment in the state prison system for a period not to exceed ten (10) years and by a fine not to exceed five thousand dollars (\$5,000). If the offender is on probation or other supervised release or suspension from incarceration at the time of the violation, the probation or supervised release or suspension shall be revoked and the penalty for violating this chapter shall be served consecutively to the offender's original sentence.

(2) An offender subject to registration under this chapter, who willfully provides false or misleading information in the registration required, shall be guilty of a felony and shall be punished by imprisonment in a state prison for a period not to exceed ten (10) years and a fine not to exceed five thousand dollars (\$5,000).

(3) An offender subject to registration under this chapter, who willfully evades service of the board's notice pursuant to section 18-8319, Idaho Code, shall be guilty of a felony and shall be punished by imprisonment in a state prison for a period not to exceed ten (10) years and a fine not to exceed five thousand dollars (\$5,000).

18-8312. SEXUAL OFFENDER CLASSIFICATION BOARD -- APPOINTMENT -- TERMS -- VACANCIES -- CHAIRMAN -- QUORUM -- QUALIFICATIONS OF MEMBERS -- COMPENSATION OF MEMBERS. (1) A sexual offender classification board is hereby created within the Idaho department of correction. The board shall consist of four (4) members appointed by the governor by and with the advice and consent of the senate. The purpose of the board shall be to assess the risk of reoffense of any offender convicted and incarcerated for commission of a crime as set forth in section 18-8314, Idaho Code, to determine whether the offender should be designated a violent sexual predator. To the extent practicable, the board's determination shall be made prior to the offender's release from incarceration.

(2) The terms of the members shall expire as follows: one (1) member on January 1, 2001; one (1) member on January 1, 2002; one (1) member on January 1, 2003; and one (1) member on January 1, 2004. Thereafter, any person appointed a member of the board shall hold office for six (6) years.

(3) Vacancies in the membership of the board shall be filled in the same manner in which the original appointments are made. Members appointed to a vacant position shall serve the remainder of the unexpired term.

(4) Qualifications of members.

(a) At least one (1) member of the board shall have, by education, experience and training, expertise in the assessment and treatment of sexual offenders.

(b) At least one (1) member of the board shall be employed in the field of law enforcement and have training in the field of the behavior and treatment of sexual offenders.

(c) At least one (1) member of the board shall be an advocate for victims of offenders.

(5) The board shall elect a chairman from its members.

(6) A quorum shall exist when at least three (3) members of the board are present, provided that one (1) member present has, by education, experience and training, expertise in the assessment and treatment of sexual offenders.

(7) Members shall be compensated as provided by section 59-509(o), Idaho Code.

18-8313. REMOVAL OF BOARD MEMBERS. The governor may remove members of the board for reasons of inefficiency, neglect of duty, malfeasance in office, commission of a felony or inability to perform the duties of office.

18-8314. POWERS AND DUTIES OF THE SEXUAL OFFENDER CLASSIFICATION BOARD. (1) The board shall consider for review offenders scheduled for release from incarceration who are referred by the department of correction or parole commission to determine whether the offender should be designated as a violent sexual predator presenting a high risk of reoffense. Only offenders who were sentenced and convicted for one (1) or more of the crimes set forth in sections 18-1506, 18-1506A, 18-1507, 18-1508, 18-4003(d), 18-4502, 18-6101 (but excluding subsection 1. of such section when the offender is eighteen (18) years of age or younger), 18-6108, 18-6602, 18-6605 and 18-6608, Idaho Code, or any violation of the duty to register as provided in this chapter, or are recidivists as defined in this chapter, are eligible for review by the board.

(2) The board shall consider for review offenders who were sentenced and convicted for one (1) or more crimes enumerated in subsection (1) of this section, or any violation of the duty to register as provided in this chapter, or offenders who are recidivists as defined in this chapter, who have been released under supervision, for the purpose of determining whether the offender should be designated as a violent sexual predator presenting a high risk of reoffense. Such review shall be undertaken upon request of the district court having jurisdiction over the offender on probation or of the parole commission if the offender has been released on parole regardless of whether the offender has been reviewed by the board prior to release from incarceration. For purposes of seeking a board review pursuant to this subsection, the court or parole commission may consider all relevant evidence including, but not limited to, the probation or parole official's observations and opinions of these offenders while under supervision, in light of the circumstances of the underlying offense.

(3) The board shall consider for review offenders living in Idaho who were sentenced and convicted for one (1) or more crimes enumerated in subsection (1) of this section, or substantially equivalent to those enumerated in subsection (1) of this section and committed in another state, territory, commonwealth or other jurisdiction of the United States, including tribal courts and military courts, and who have been released under federal or tribal court supervision. Such review shall be for the purpose of determining

whether the offender should be designated as a violent sexual predator presenting a high risk of reoffense, and shall be undertaken upon request of the federal or tribal court having jurisdiction over the offender. For purposes of seeking a board review pursuant to this subsection, the federal or tribal court may consider all relevant evidence including, but not limited to, the probation official's observations and opinions of these offenders while under supervision, in light of the circumstances of the underlying offense.

(4) The board shall by rule:

(a) Establish standards for psychosexual evaluations and the qualifications for certified evaluators performing evaluations pursuant to sections 18-8316 and 18-8317, Idaho Code.

(b) Set forth procedures for the approval, certification and quality assurance of evaluators pursuant to this section.

(c) Establish a nonrefundable initial certification processing fee not to exceed one hundred fifty dollars (\$150) and a nonrefundable annual recertification processing fee not to exceed one hundred fifty dollars (\$150).

(5) The board shall establish guidelines to determine whether an offender who meets the criteria of this section is a violent sexual predator presenting a high risk of reoffense. The guidelines shall be established with the assistance of sexual offender treatment and law enforcement professionals who have, by education, experience or training, expertise in the assessment and treatment of sexual offenders.

(a) Factors to be used in establishment of the guidelines must be supported in the sexual offender assessment field as criteria reasonably related to the risk of reoffense and be objective criteria that can be gathered in a consistent and reliable manner.

(b) The guidelines shall include, but are not limited to, the following general categories for risk assessment: seriousness of the offense, offense history, whether the offense was predatory, characteristics of the offender, characteristics of the victim, the relationship of the offender to the victim, the number of victims and the number of violations of each victim.

(6) If the offender has indicated an intention to reoffend if released into the community and the available record reveals credible evidence to support this finding, then the offender shall be deemed a violent sexual predator regardless of application of the guidelines.

(7) Once the board has made its determination, it shall set forth written findings which shall include:

(a) The board's risk assessment and the reasons upon which the risk assessment was based; and

(b) The board's determination whether the offender should be designated as a violent sexual predator and the reasons upon which the determination was based.

(8) The board shall have authority to promulgate rules to carry out the provisions of this chapter.

18-8315. COMPLIANCE WITH OPEN MEETING LAW -- EXECUTIVE SESSIONS AUTHORIZED -- REPORT REQUIRED. (1) All meetings of the board shall be held in accordance with the open meeting law as provided in chapter 23, title 67,

Idaho Code, except:

- (a) Consideration of and discussions pertaining to documents not subject to public disclosure, such as the presentence investigation report, certain medical or psychological reports and any reports, orders or other documents sealed by court order;
- (b) Deliberations and decisions concerning the classification of violent sexual predators; and
- (c) Votes of individual members in arriving at the classification decisions shall not be made public, provided that the board shall maintain a record of the votes of the individual members as required in subsection (2) of this section.

(2) A written record of the vote to classify an offender as a violent sexual predator by each board member in each case reviewed by that member shall be produced by the board. In accordance with section 9-340B, Idaho Code, the record produced by the board pursuant to this section shall be kept confidential and privileged from disclosure, provided the record shall be made available, upon request, to the governor and the chairman of the senate judiciary and rules committee and the chairman of the house of representatives judiciary, rules and administration committee, for all lawful purposes. Distribution of the report by a board member or an employee of the board to any person not specifically listed in this section shall be a misdemeanor.

(3) Nothing contained in this section shall prevent any person from obtaining the results of any classification action by the board without reference to the manner in which any member voted. This information can be obtained through a public records request made to the board.

(4) Nothing contained herein shall prevent the governor and chairman of the senate judiciary and rules committee and the chairman of the house of representatives judiciary, rules and administration committee from attending any meeting including an executive session of the sexual offender classification board.

18-8316. REQUIREMENT FOR PSYCHOSEXUAL EVALUATIONS UPON CONVICTION.

If ordered by the court, an offender convicted of any offense listed in section 18-8304, Idaho Code, shall submit to an evaluation to be completed and submitted to the court in the form of a written report from a certified evaluator as defined in section 18-8303, Idaho Code, for the court's consideration prior to sentencing and incarceration or release on probation. The court shall select the certified evaluator from a central roster of evaluators compiled by the sexual offender classification board. A certified evaluator performing such an evaluation shall be disqualified from providing any treatment ordered as a condition of any sentence, unless waived by the court. For offenders convicted of an offense listed in section 18-8314, Idaho Code, the evaluation shall state whether it is probable that the offender is a violent sexual predator. An evaluation conducted pursuant to this section shall be done in accordance with the standards established by the board pursuant to section 18-8314, Idaho Code.

18-8317. REQUIREMENT FOR PSYCHOSEXUAL EVALUATIONS UPON RELEASE.

Every offender who meets the criteria set forth in section 18-8314, Idaho Code, and has been considered by the board and deemed appropriate for review for violent sexual predator designation, shall submit to psychosexual evaluation. Every incarcerated offender

whose evaluation under section 18-8316, Idaho Code, states that the offender is a probable violent sexual predator, shall submit to a psychosexual evaluation and shall be reviewed by the board. The purpose of the evaluation is for assessing risk of reoffense and to determine whether the offender should be designated as a violent sexual predator. If the offender is incarcerated, the evaluation is to be performed prior to release from incarceration. These evaluations shall be performed either by a certified evaluator as defined in section 18-8303, Idaho Code, or a mental health professional employed by the department of correction. The individual performing an evaluation under this section shall not be a member of the sexual offender classification board at the time the evaluation is performed. The individual performing the evaluation shall be disqualified from providing any treatment ordered or attached as a condition of parole, unless waived by the department of correction. An evaluation conducted pursuant to this section shall be done in accordance with the standards established by rule of the board pursuant to section 18-8314, Idaho Code.

18-8318. OFFENDER REQUIRED TO PAY FOR PSYCHOSEXUAL EVALUATION. The offender shall be required to pay for the cost of the psychosexual evaluations performed under this chapter, unless the offender demonstrates indigency. In such case, the psychosexual evaluation performed pursuant to section 18-8316, Idaho Code, shall be paid for by the county, and the evaluation performed pursuant to section 18-8317, Idaho Code, shall be paid for by the department of correction. As a condition of sentence, indigent offenders for whom the county has paid the cost of evaluation performed pursuant to section 18-8316, Idaho Code, shall be required to repay the county for the cost.

18-8319. NOTICE OF THE BOARD'S DETERMINATION. (1) Subject to the exception identified in section 18-8320, Idaho Code, the offender and the sheriff of the county in which the offender resides or intends to reside upon release shall be notified by the board that an offender has been designated as a violent sexual predator. This notice shall be in the form of the board's written findings.

(2) The board shall serve a copy of its written findings to the offender within ten (10) working days of the date that designation has been made. Service of the written findings will be made upon the sheriff in accordance with the offender's status.

(a) Notice shall be served upon the sheriff of the county in which the offender resides within ten (10) working days of the date that designation has been made, if the offender is not incarcerated.

(b) If the offender is awaiting release from incarceration, notice shall be made upon the sheriff of the county in which the offender intends to reside no less than seven (7) days prior to the offender's release.

(c) In the event the offender has not specified a residence plan prior to his release, notice shall be made upon the sheriff of the county in which the offender is released from incarceration, and upon the sheriff of the county in which the offender initially resides and registers after release.

(3) The board's notice to the offender shall also inform the offender:

(a) That the offender may challenge the designation as a violent sexual predator by judicial review;

(b) That unless application is made to the applicable district court on or before the date set forth in the notice, which shall be no more than fourteen (14) calendar days

after the notice is given, the offender shall be deemed to have waived the right to challenge the designation;

(c) The applicable district court shall be determined as:

(i) The county in which the offender resides if the offender has been released from incarceration; or

(ii) The county in which the offender intends to reside if the offender has not been released from incarceration; or

(iii) If the offender intends to reside in another state, territory, commonwealth or other jurisdiction of the United States immediately upon release from incarceration, the county in which the offender was most recently convicted of an offense as listed in section 18-8314, Idaho Code;

(d) That the offender has the right to retain counsel and that counsel will be provided by the court if the offender cannot afford counsel; and

(e) How such application should be made if counsel is not retained. If counsel is not retained, notice filed with the district court in the applicable county, which encloses a copy of the board's written findings and indicates the offender's objection or disagreement with it shall suffice.

(4) Upon determining that the offender has not received the board's notice pursuant to this section, the board shall notify the sheriff of the county in which the offender resides. This notice shall be in writing and shall be delivered in a manner which will ensure receipt by the sheriff. Upon request of the board, the sheriff may personally serve the offender with the board's notice, or the sheriff may verify the offender's address and advise the board in order that notice may once again be served. If, after the second attempt to serve the offender, the board or sheriff determines that the offender has evaded service or attempted to evade service, the matter shall be referred for prosecution pursuant to section 18-8311(3), Idaho Code.

18-8320. EXCEPTION TO NOTICE OF BOARD'S CLASSIFICATION DETERMINATION TO OFFENDER. Beginning with the effective date of this chapter, if an offender avoids service of the notice of the board's designation of the offender as a violent sexual predator, or if after a good faith effort to serve the offender, service has not been completed within ten (10) working days of the date that designation has been made, notice to the offender may be dispensed with and the offender shall be deemed to have waived the right to judicial review as otherwise provided in this chapter.

18-8321. JUDICIAL REVIEW. (1) Judicial review of an offender's challenge to the designation as a violent sexual predator is civil, not criminal, and remedial, not adversarial.

(2) Immediately upon receipt of an offender's objection or challenge to the designation as a violent sexual predator, the court shall set a date for a summary hearing.

(3) Upon notification of a date for a summary hearing, the prosecutor shall forthwith turn over all papers, documents and other relevant material to the court. A written summarization of information relied upon by the sexual offender classification board may be made available to the offender. However the following documents produced by the sexual offender classification board shall be withheld from disclosure and available only for in camera review by the court:

- (a) Records that contain names and addresses, identifying information or any information that would lead to the identification of any victims or witnesses;
- (b) Written statements or testimony of victims, witnesses, guardians or persons representing victims or witnesses;
- (c) Reports prepared specifically for use by the commission for pardons and parole in making parole determinations pursuant to section 20-223, Idaho Code; and
- (d) Other records to remain confidential consistent with rules of criminal or civil procedure.

(4) Judicial review under this chapter shall be conducted as a summary, in camera review proceeding, in which the court decides only whether to affirm or reverse the board's designation of the offender as a violent sexual predator.

(5) The court shall have broad discretion over whether and to what extent witnesses and cross-examination will be allowed.

(6) The rules of evidence do not apply.

(7) The court may rely on documentary evidence, such as expert opinions, for all issues.

(8) Nonconviction offense, i.e., criminal activity that has not been the subject of a conviction, shall be considered in review of the board's designation, provided that there is sufficient evidence that the nonconviction offense occurred.

(9) Where the proof, whether in the form of reliable hearsay, affidavits, or offers of live testimony, creates a genuine issue of material fact as to whether the offender is a violent sexual predator, the court should convene a fact-finding hearing and permit live testimony.

(10) The state bears the burden of presenting a prima facie case that justifies the designation as a violent sexual predator.

(11) The court shall affirm the board's determination unless persuaded by a preponderance of the evidence that it does not conform to the law or the guidelines.

(12) The offender is entitled to challenge the designation as a violent sexual predator based upon two (2) grounds:

- (a) The offender may introduce evidence that the calculation that led to the designation as a violent sexual predator was incorrectly performed either because of a factual error, because the offender disputes a prior offense, because the variable factors were improperly determined, or for similar reasons; and
- (b) The offender may introduce evidence at the hearing that the designation as a violent sexual predator does not properly encapsulate the specific case, i.e., the offender may maintain that the case falls outside the typical case of this kind and, therefore, that the offender should not be designated as a violent sexual predator.

(13) Either party may appeal the decision of the court.

(14) Offenders who are not designated as violent sexual predators are not entitled to judicial review under this section.

18-8322. VIOLENT SEXUAL PREDATORS MOVING FROM OTHER STATES. Offenders moving to Idaho from other states who have been classified as violent sexual offenders or given a substantially similar classification shall be classified violent sexual offenders under this chapter. Any offender who is so classified shall have the right to judicial review of the classification, but the burden of proof in such proceedings shall be upon the offender.

18-8323. PUBLIC ACCESS TO SEXUAL OFFENDER REGISTRY INFORMATION. Information within the sexual offender registry collected pursuant to this chapter is subject to release only as provided by this section.

(1) The department or sheriff shall provide public access to information contained in the central sexual offender registry. The department shall promulgate rules defining the processes for providing information to the public and the requirements for retention of inquiry records by the department and sheriff. The department may provide public access to the sex offender registry by means of the internet.

(2) The department and sheriff will respond to requests for sexual offender registry information within ten (10) working days of receipt of the written request.

(a) Any person may inquire about a named individual by submitting an information request form obtained from the department or sheriff. The department shall promulgate rules outlining the methods and means of submitting requests. Information required for inquiry shall include the individual's full name and address, or full name and date of birth. The requester shall provide his full name, street address and driver's license or social security number.

(b) Any person may request a list of registered sexual offenders by geographic area, such as by county or by zip code area, as determined by rule, by submitting an information request form obtained from the department or sheriff. The requester shall provide his full name, street address and driver's license, social security number, or state identification number.

(c) Schools, organizations working with youth, women or other vulnerable populations may request a statewide list or lists by geographic area within the state.

(d) The department and sheriff may collect a fee of five dollars (\$5.00) for each response to a written request.

(e) Information to be provided includes the offender's name, address, any aliases or prior names, date of birth, the crime of conviction, and the place of conviction. The information provided shall also state whether the offender is a violent sexual predator.

(f) Identity of the offender's employer or educational institution currently attended will not be provided for any registered sexual offender.

(g) Where a crime category such as "incest" may serve to identify a victim, that crime will be reported as section 18-1506, Idaho Code.

(h) Any information identifying any person related to, living with, working for, employing or otherwise associated with a registered sexual offender shall be excluded from release.

(3) The department shall provide to any person, upon written request and at a reasonable cost, determined by the department, a photograph of any registered sexual offender which the department maintains in its central sexual offender registry. The department shall respond to requests for photographs within ten (10) working days of receipt.

(4) Fees received by the department pursuant to this section shall be deposited in the department's miscellaneous revenue fund and used to support the operation of the central registry. Fees received by the sheriff pursuant to this section shall be used to defray the cost of sexual offender registration.

(5) The department shall include a cautionary statement relating to completeness, accuracy and use of registry information when releasing information to the public or noncriminal justice agencies as well as a statement concerning the penalties provided in section 18-8326, Idaho Code, for misuse of registry information.

(6) Information released pursuant to this section may be used only for the protection of the public.

(7) Further dissemination of registry information by any person or entity shall include the cautionary statements required in subsection (5) of this section.

18-8324. DISSEMINATION OF REGISTRY INFORMATION. (1) The department shall disseminate any registration information collected under this chapter, including change of address notification, to criminal justice agencies through the public safety and security information system established in section 19-5202, Idaho Code. Registry information provided under this section shall be used only for the administration of criminal justice or for the protection of the public as permitted by this chapter.

(2) The department shall provide quarterly to the superintendent of public instruction and to the director of the department of health and welfare a list of all sexual offenders required to register with the central registry together with the address, date of birth and crime of conviction for each offender listed. The superintendent may further distribute the list or portions thereof to school districts or to schools.

(3) The department shall release quarterly to the public a list of offenders thirty (30) days or more delinquent in maintaining registration or address verification. Offenders subject to being listed include those who have failed:

- (a) To register with a sheriff after initial registration under section 18-8307, Idaho Code;
- (b) To register annually as required in section 18-8307, Idaho Code; and
- (c) To respond to an address verification notice as required in section 18-8308, Idaho Code.

(4) The department shall include a cautionary statement relating to completeness, accuracy and use of registry information when releasing information to the public or noncriminal justice agencies as well as a statement concerning the penalties provided in section 18-8326, Idaho Code, for misuse of registry information.

(5) Information released pursuant to this section may be used only for the protection of the public.

(6) Further dissemination of registry information by any person or entity shall include the cautionary statements required in subsection (4) of this section.

(7) Upon registration in a county of a person classified as a violent sexual predator presenting a high risk of reoffense by the Idaho sex offender classification board, or an equivalent classification in another state, the sheriff shall publish in a newspaper in general circulation within the county once a week for three (3) consecutive weeks, the name, address, photograph of said person and offense the offender has committed within thirty (30) days of registration and within this time period shall also disseminate the name, address, photograph of said person and offense the offender has committed to all major local radio and television media. The sheriff shall charge a fee of fifty dollars (\$50.00) in addition to any other fees authorized by this chapter to be paid by the sex offender. Fees shall be deposited in a violent sexual predator account maintained by the sheriff to be used for the purpose of public education relating to violent sexual predators and to offset the cost of newspaper publication.

18-8325. EXEMPTION FROM CIVIL LIABILITY. (1) No person or governmental entity, other than those specifically charged in this chapter with a duty to collect information under this chapter regarding registered sexual offenders, has a duty to inquire, investigate or disclose any information regarding registered sexual offenders.

(2) No person or governmental entity, other than those specifically charged in this chapter with an affirmative duty to provide public access to information regarding registered sexual offenders, shall be held liable for any failure to disclose any information regarding registered sexual offenders to any other person or entity.

(3) Every person or governmental entity who, acting without malice or criminal intent, obtains or disseminates information under this chapter shall be immune from civil liability for any damages claimed as a result of such disclosures made or received.

18-8326. PENALTIES FOR VIGILANTISM OR OTHER MISUSE OF INFORMATION OBTAINED UNDER THIS CHAPTER. Any person who uses information obtained pursuant to this chapter to commit a crime or to cause physical harm to any person or damage to property shall be guilty of a misdemeanor and, in addition to any other punishment, be subject to imprisonment in the county jail for a period not to exceed one (1) year, or by a fine not to exceed one thousand dollars (\$1,000) or both.

18-8327. ADULT CRIMINAL SEX OFFENDER -- PROHIBITED EMPLOYMENT. (1) Except as provided in section 18-8328, Idaho Code, it is a felony for any person to: apply for or to accept employment at a day care center, group day care facility or family day care home; or to be upon or to remain on the premises of a day care center, group day care facility or family day care home while children are present, other than to drop off or pick up the person's child or children if the person is currently registered or is required to register under the sex offender registration act as provided in chapter 83, title 18, Idaho Code.

(2) The owner or operator of any day care center, group day care facility or family day care home who knowingly employs a person or who knowingly accepts volunteer services from a person, which person is currently registered or is required to register under the sex offender registration act as provided in chapter 83, title 18, Idaho Code, to work in the day

care center, group day care facility or family day care home is guilty of a misdemeanor unless judicial relief has been granted pursuant to section 18-8328, Idaho Code.

18-8328. ACTION FOR RELIEF BY OFFENDER OR JUVENILE OFFENDER. Any person who is required to register pursuant to chapter 83, title 18, Idaho Code, or chapter 84, title 18, Idaho Code, may file a petition in a district court in the judicial district where the person resides, to have relief from the provisions of section 18-8327 or 18-8414, Idaho Code, pertaining to employment in or being upon or remaining on the premises of a day care center, group day care facility or family day care home while children are present, other than to drop off or pick up the sex offender's or juvenile sex offender's child or children. To be granted relief pursuant to this section, the person shall show by clear and convincing evidence that the person required to register pursuant to chapter 83, title 18, Idaho Code, or chapter 84, title 18, Idaho Code, does not pose a threat to children in a day care center, group day care facility or family day care home, it has been at least ten (10) years since the person's last conviction, finding of guilt or adjudication that required the person to register pursuant to chapter 83, title 18, Idaho Code, or chapter 84, title 18, Idaho Code, and the petitioner presents testimony from a licensed physician or psychologist about the petitioner's chance of success of not committing an act against children.

18-8329. ADULT CRIMINAL SEX OFFENDERS -- PROHIBITED ACCESS TO SCHOOL CHILDREN -- EXCEPTIONS.

(1) If a person is currently registered or is required to register under the sex offender registration act as provided in chapter 83, title 18, Idaho Code, it is a misdemeanor for such person to:

(a) Be upon or to remain on the premises of any school building or school grounds in this state, or upon other properties posted with a notice that they are used by a school, when the person has reason to believe children under the age of eighteen (18) years are present and are involved in a school activity or when children are present within thirty (30) minutes before or after a scheduled school activity.

(b) Knowingly loiter on a public way within five hundred (500) feet from the property line of school grounds in this state, including properties posted with a notice that they are used by a school, when children under the age of eighteen (18) years are present and are involved in a school activity or when children are present within thirty (30) minutes before or after a scheduled school activity.

(c) Be in any conveyance owned or leased by a school to transport students to or from school or a school-related activity when children under the age of eighteen (18) years are present in the conveyance.

(d) Reside within five hundred (500) feet of the property on which a school is located, measured from the nearest point of the exterior wall of the offender's dwelling unit to the school's property line, provided however, that this paragraph (d) shall not apply if such person's residence was established prior to July 1, 2006.

(e) The posted notices required in this subsection (1) shall be at least one hundred (100) square inches, shall make reference to section 18-8329, Idaho Code, shall include the term "registered sex offender" and shall be placed at commonly used entrances to the property. In addition, there shall be at least one (1) notice posted every six hundred sixty (660) feet along the property line.

(2) The provisions of subsections (1)(a) and (1)(b) of this section shall not apply when the person:

- (a) Is a student in attendance at the school; or
- (b) Is attending an academic conference or other scheduled extracurricular school event with school officials present when the offender is a parent or legal guardian of a child who is participating in the conference or extracurricular event. "Extracurricular" means any school-sponsored activity that is outside the regular curriculum, occurring during or outside regular school hours including, but not limited to, academic, artistic, athletic or recreational activities; or
- (c) Resides at a state licensed or certified facility for incarceration, health or convalescent care; or
- (d) Is dropping off or picking up a child or children and the person is the child or children's parent or legal guardian; or
- (e) Is temporarily on school grounds, during school hours, for the purpose of making a mail, food or other delivery; or
- (f) Is exercising his right to vote in public elections; or
- (g) Is taking delivery of his mail through an official post office located on school grounds; or
- (h) Has written permission from a school principal, vice-principal, or the equivalent, to be on the school grounds or upon other property posted with a notice that the property is used by a school; or
- (i) Stays at a homeless shelter or resides at a recovery facility if such shelter or facility has been approved for sex offenders by the county sheriff or municipal police chief.

(3) Nothing in this section shall prevent a school district from adopting more stringent safety and security requirements for employees and nonemployees while they are in district facilities and/or on district properties.

18-8331. ADULT CRIMINAL SEX OFFENDERS -- PROHIBITED GROUP DWELLING --

EXCEPTIONS. (1) Except as otherwise provided in this section, when a person is required to register pursuant to this chapter, that person may not reside in any residential dwelling unit with more than one (1) other person who is also required to register pursuant to this chapter. If, on the effective date of this section, any person required to register pursuant to this chapter, is legally residing in a residential dwelling unit with more than one (1) other person required to so register, the person may continue to reside in that residential dwelling unit without violating the provisions of this section, provided that no additional persons so required to register shall move into that residential dwelling unit if the person moving in would be in violation of this section.

(2) For purposes of this section:

(a) "Reside" and "residing" mean occupying the residential dwelling unit as a fixed place of abode or habitation for any period and to which place the person has the intention of returning after a departure or absence therefrom regardless of the duration of absence.

(b) "Residential dwelling unit" includes, but is not limited to, single family dwellings and units in multifamily dwellings including units in duplexes, apartment dwellings, mobile homes, condominiums and townhouses in areas zoned as residential. For the purposes of this section a state or federally licensed health care or convalescent facility is not a residential dwelling unit.

(3) (a) A judge of the district court may, upon petition and after an appropriate hearing, authorize a person required to register pursuant to this chapter, to reside in a residential

dwelling unit with more than one (1) other person who is also required to register pursuant to this chapter, if the judge determines that:

(i) Upon clear and convincing evidence that not doing so would deprive the petitioner of a constitutionally guaranteed right; and

(ii) That such right is more compelling under the facts of the case than is the interest of the state and local government in protecting neighboring citizens, including minors, from risk of physical or psychological harm. Such risk of harm shall be presumed absent clear and convincing evidence to the contrary given the applicant's status as a person required to register pursuant to this chapter;

(b) Any exception allowed under this section shall be limited to alleviate only a deprivation of constitutional right which is more compelling than the interest of the state and local government in minimizing the risk of harm to the neighboring citizens;

(c) Any order of exception under this section shall be made a part of the registry maintained pursuant to this chapter.

(4) Any city or county may establish standards for the establishment and operation of residential houses for registered sex offenders which exceed the number of registered sex offenders allowed to reside in a residential dwelling unit under subsection (1) of this section. Applicable standards shall include establishing procedures to allow comment of neighboring residents within a specified distance, and may include, but are not limited to:

(a) Designating permissible zones in which such houses may be located;

(b) Designating permissible distances between such houses;

(c) Designating the maximum number of registered sex offenders allowed to reside in such houses;

(d) Designating qualifications and standards for supervision and care of such houses and the residents;

(e) Designating requirements and procedures to qualify as the operator of such houses, including any requirement that the residents be engaged in treatment or support programs for sex offenders and related addiction treatment or support programs; and

(f) Designating any health and safety requirements which are different than those applicable to other residential dwelling units in the zone.

(5) No person or entity shall operate a residence house for registered sex offenders in violation of the limitations of subsection (1) of this section except as otherwise provided under subsection (4) of this section. If, on the effective date of this section, any individual or entity is operating an existing residence house for persons required to register pursuant to this chapter, and when such individual or entity also requires such persons to be participants in a sex offender treatment or support program such individual or entity shall not be precluded from continuing to operate such residence house, provided that:

(a) The residence house shall not operate at a capacity exceeding eight (8) residents in the dwelling unit and two (2) residents per bedroom, or the existing number of residents, whichever is less;

(b) Once the governing city or county enacts an ordinance pursuant to subsection (4) of this section establishing standards for the operation of a residence house for sex offenders, the operator of the residence house shall, no later than one (1) year after enactment of the ordinance, comply with all standards of the ordinance, except any requirement that is less than the maximum capacity provided for under subsection (5)(a) of this section or which requires a relocation of the residence;

(c) The burden of proving that an existing residence house qualifies for continuing operation under this subsection shall be upon the operator of the residence house;

(d) Any change in the use of an existing residence house shall void the exception for the continuing operation of the house under the provisions of this section.

(6) If any person required to register pursuant to this chapter, is on parole or probation under the supervision of the Idaho department of correction, the department shall be notified by the person or the person's agent of any intent to reside with another person required to register under this chapter. The department must approve the living arrangement in advance as consistent with the terms of the parole or probation, and consistent with the objective of reducing the risk of recidivism. The department shall establish rules governing the application of this subsection.

(7) Any person who knowingly and with intent violates the provisions of this section is guilty of a misdemeanor.

(8) Any city or county is entitled to injunctive relief against any person or entity operating a residence house within its jurisdiction in violation of this section.

TITLE 18 CHAPTER 84 JUVENILE SEX OFFENDER REGISTRATION NOTIFICATION AND COMMUNITY RIGHT-TO-KNOW ACT

(Including amendments through the 2008 legislative session)

18-8401. SHORT TITLE. This chapter shall be known and may be cited as the "Juvenile Sex Offender Registration Notification and Community Right-to-Know Act."

18-8402. FINDINGS. The legislature finds that juvenile sex offenders present a significant risk of reoffense and that efforts of law enforcement agencies to protect communities, conduct investigations and quickly apprehend offenders who commit sex offenses are impaired by the lack of information available about individuals who have been convicted or adjudicated delinquent of sex offenses who live within their jurisdiction. The legislature further finds that providing public access to certain information about sex offenders assists parents in the protection of their children. Further, such access provides a means for organizations that work with youth or other vulnerable populations to prevent juvenile sex offenders from threatening those served by the organizations. Finally, public access assists the public to be observant of convicted juvenile sex offenders in order to prevent the offenders from recommitting sex crimes. Therefore, this state's policy is to assist efforts of local law enforcement agencies to protect communities by requiring juvenile sex offenders to register with local law enforcement agencies and to make certain information about juvenile sex offenders available to the public as provided in this chapter.

18-8403. DEFINITIONS. As used in this chapter, "juvenile sex offender" means a person who was between fourteen (14) years of age to eighteen (18) years of age at the time the qualifying sex offense was committed and who:

- (1) On or after July 1, 1998, was adjudicated delinquent under the juvenile corrections act for an action that would be an offense enumerated in section 18-8304, Idaho Code, if committed by an adult; or
- (2) As of July 1, 1998, is serving formal probation, a period of detention, or commitment to the department of juvenile corrections as the result of sentencing imposed under section 20-520, Idaho Code, for an action that would be an offense enumerated in section 18-8304, Idaho Code, if committed by an adult; or
- (3) Was adjudicated delinquent in another state for an action that is substantially equivalent to the offenses enumerated in section 18-8304, Idaho Code, and is subject on or after July 1, 1998, to Idaho court jurisdiction under the interstate compact on juveniles; or
- (4) Is required to register in another state for having committed a sex offense in that state regardless of the date of the offense or its adjudication.

18-8404. JUVENILE SEX OFFENDER REGISTRY. The Idaho state police shall establish and maintain within the central sex offender registry a separate registry of juvenile sex offenders. The registry shall include fingerprints, photographs, and information collected from submitted forms and other communications relating to notice of duty to register, sex offender registration, and notice of address change. Information in the registry of juvenile

sex offenders is subject to release to criminal justice agencies pursuant to section 18-8305, Idaho Code, and to the public pursuant to section 18-8323, Idaho Code.

18-8405. NOTIFICATION OF DUTY TO REGISTER -- PROBATION. With respect to a juvenile sex offender sentenced to probation without a period of detention, the court shall provide at the time of sentencing written notification of the duty to register. The written notification shall be a form provided by the Idaho state police and shall be signed by the juvenile and the parents or guardian of the juvenile. One (1) copy shall be retained by the court, one (1) copy shall be provided to the offender, and one (1) copy shall be submitted **within three (3) working days** to the central registry.

18-8406. NOTIFICATION OF DUTY TO REGISTER -- PRIOR TO RELEASE. With respect to a juvenile sex offender sentenced to a period of detention, the county shall provide, prior to release, written notification of the duty to register. With respect to a juvenile sex offender committed to the custody of the department of juvenile corrections, the department shall provide, prior to release, written notification of the duty to register. The written notification shall be a form provided by the Idaho state police and shall be signed by the juvenile and the parents or guardian of the juvenile. One (1) copy shall be retained by the department of juvenile corrections, one (1) copy shall be provided to the offender, and one (1) copy shall be submitted **within three (3) working days** to the central registry.

18-8407. ANNUAL REGISTRATION. A juvenile sex offender, other than one serving a period of detention or committed to the department of juvenile corrections, shall be subject to annual registration and change of name or address notification pursuant to sections 18-8307 and 18-8309, Idaho Code. All written notifications of duty to register as provided herein shall include a warning that it is a felony punishable as provided in section 18-8414, Idaho Code, for a juvenile sex offender to accept employment in any day care center, group day care facility or family day care home, as those terms are defined in chapter 11, title 39, Idaho Code, or to be upon or to remain on the premises of a day care center, group day care facility or family day care home while children are present, other than to drop off or pick up the juvenile sex offender's child or children.

18-8408. PROVIDING LIST TO SUPERINTENDENT OF PUBLIC INSTRUCTION. The Idaho state police shall provide to the superintendent of public instruction, quarterly and on request, a list of registered juvenile sex offenders in the state. The superintendent of public instruction subsequently shall notify a school district or private school regarding the enrollment of a registered juvenile sex offender. The superintendent shall also notify the district or school of the offender's probationary status or treatment status, if known.

18-8409. FAILURE TO REGISTER, PENALTIES.

(1) A juvenile sex offender who fails to register or provide notification of a change of name or address is guilty of a misdemeanor.

(2) A parent or guardian of a juvenile sex offender commits the misdemeanor offense of failure to supervise a child if the offender fails to register or provide notification of a change of name or address as required by this section. A person convicted of this offense is subject to a fine of not more than one thousand dollars (\$1,000).

18-8410. TRANSFER TO ADULT REGISTRY. When a registered juvenile sex offender

reaches twenty-one (21) years of age, the prosecutor may petition the court to transfer the offender to the adult registry, subject to the registration and notification provisions of chapter 83, title 18, Idaho Code. If the court determines at a hearing that the juvenile sex offender is likely to pose a threat to the safety of others, the court shall order that the delinquent act be deemed an adult criminal conviction for the purpose of registration, notification, and public information access pursuant to chapter 83, title 18, Idaho Code. If no petition is filed, or if the court determines the juvenile is not likely to pose a threat to the safety of others, the juvenile shall be deleted from the registry.

18-8411. JUVENILES CONVICTED AS ADULTS. The provisions of this section do not apply to a juvenile who is subject to registration and notification requirements of chapter 83, title 18, Idaho Code, because the offender was convicted of a sex offense as an adult.

18-8412. EXEMPTION FROM CIVIL LIABILITY.

(1) No person or governmental entity, other than those specifically charged in this chapter with a duty to collect information under this chapter regarding registered sex offenders, has a duty to inquire, investigate or disclose any information regarding registered sex offenders.

(2) No person or governmental entity, other than those specifically charged in this chapter with an affirmative duty to provide public access to information regarding registered sex offenders, shall be held liable for any failure to disclose any information regarding registered sex offenders to any other person or entity.

(3) Every person or governmental entity who, acting without malice or criminal intent, obtains or disseminates information under this chapter shall be immune from civil liability for any damages claimed as a result of such disclosures made or received.

18-8413. PENALTIES FOR VIGILANTISM OR OTHER MISUSE OF INFORMATION OBTAINED UNDER THIS CHAPTER. Any person who uses information obtained pursuant to this chapter to commit a crime or to cause physical harm to any person or damage to property shall be guilty of a misdemeanor and, in addition to any other punishment, shall be subject to imprisonment in the county jail for a period not to exceed one (1) year, or by a fine not to exceed one thousand dollars (\$1,000) or both.

18-8414. JUVENILE SEX OFFENDER -- PROHIBITED EMPLOYMENT.

(1) Except as provided in section 18-8328, Idaho Code, it is a felony for any person to: apply for or to accept employment at a day care center, group day care facility or family day care home; or to be upon or to remain on the premises of a day care center, group day care facility or family day care home while children are present, other than to drop off or pick up the person's child or children if the person is currently registered or is required to register under the juvenile sex offender registration act as provided in chapter 84, title 18, Idaho Code.

(2) The owner or operator of any day care center, group day care facility or family day care home who knowingly employs a person or who knowingly accepts volunteer services from a person, which person is currently registered or is required to register under the juvenile sex offender registration act as provided in chapter 84, title 18, Idaho Code, to work in the day care center, group day care facility or family day care home is guilty of a misdemeanor unless judicial relief has been granted pursuant to section 18-8328, Idaho Code.

IDAPA 11 TITLE 10 Chapter 03

(Note: IDAPA Rules updated August 1, 2005)

11.10.03 - RULES GOVERNING THE SEX OFFENDER REGISTRY

000.LEGAL AUTHORITY. The Idaho State Police has authority to make rules to implement the sex offender central registry pursuant to Title 18, Chapter 83, Idaho Code, Sections 18-8301 through 18-8331.

001.TITLE AND SCOPE. These rules shall be cited as IDAPA 11.10.03, "Rules Governing the Sex Offender Registry". The rules relate to the administration of the state's sex offender central registry, which includes both adult and juvenile offenders.

002.WRITTEN INTERPRETATIONS. There are no written interpretations of these rules

003.ADMINISTRATIVE APPEALS. Administrative appeals under this chapter shall be governed by the rules of administrative procedure of the attorney general, IDAPA

004. INCORPORATION BY REFERENCE.

There are no incorporation documents in these rules.

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS -- STREET ADDRESS -- TELEPHONE NUMBER -- INTERNET WEBSITE.

01. Office Hours. Office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays designated by the state of Idaho.

02. Mailing Address. The mailing address for the business office is Sex Offender Registry, Idaho State Police, Bureau of Criminal Identification, P.O. Box 700, Meridian, Idaho 83680-0700.

03. Street Address. The business office for the Sex Offender Registry is located at 700 S. Stratford Dr., Meridian Idaho 83642.

04. Telephone. The telephone number for the Sex Offender Registry is 208-884-7305. (8-1-05)

05. Internet Websites.

a. The Department's internet website is found at <http://www.isp.state.id.us>.

b. The Central Sex Offender Registry internet website is found at http://www.isp.state.id.us/sor_id/

006. PUBLIC RECORDS ACT COMPLIANCE.

All rules contained in this chapter are subject to and in compliance with the Idaho Public Records Act (Title 9, Chapter 3, Idaho Code).

004006. -- 009. (RESERVED).

010.DEFINITIONS.

01.Bureau. “Bureau” means the Bureau of Criminal Identification, Idaho State Police.

02.Central Registry. “Central Registry” means the state-level records system containing information, photographs and fingerprints relating to persons required to register as a sex offender under Title 18, Chapters 83 and 84, Idaho Code.

03.Department. “Department” means the Idaho State Police.

04.Director. “Director” means the director of the Idaho State Police.

05.Working Days. “Working Days” means each day except Saturday, Sunday, or a legal state holiday.

011. SEX OFFENDER CENTRAL REGISTRY - ADMINISTRATION.

01. Central Registry Established. Pursuant to Title 18, Chapter 83, Idaho Code, the department establishes a sex offender central registry in the bureau of criminal identification. The bureau is responsible for administration of the central registry pursuant to the requirements set forth in Title 18, Chapters 83 and 84, Idaho Code and these rules.

02. Form. The following forms and procedures are prescribed for providing notice to and collecting information from persons required to register as a sex offender pursuant to Title 18, Chapters 83 and 84, Idaho Code.

a. “Idaho Sex Offender Registry Notification and Registration Form.” This two (2) page form notifies an offender of the duty to register and collects from offender information required for first-time registration in a county, annual re-registration in a county, or any change of address or status within the county of residence. This form is also used for change of name. The court, correctional agency, or the sheriff shall forward the original copy, along with the offender’s photograph and fingerprints, when taken at the sheriff’s department, to the bureau within three (3) working days of completing the form.

03. Information Required at Initial Registration. In addition to the information required by Section 18-8307(8), Idaho Code, the “Idaho Sex Offender Registry Notification and Registration Form” shall collect the following information:

a. Whether the offender is registering as an adult under Title 18, Chapter 83, Idaho Code, or as a juvenile under Title 18, Chapter 84, Idaho Code;

b. Physical description of the offender, including gender, race, height, weight, eye color, hair color, and scars, marks, and tattoos;

c. Offender’s occupation and name and place of employment;

d. The name and location of a school, college, or university that the offender attends; and

e. Name of the offender’s probation/parole officer.

04. Photographs and Fingerprints. Whenever the Idaho Sex Offender Registry Notification and Registration Form is used to register an offender who moves into a county or within a county, to reregister an offender annually, or register an offender who resides out of state but is employed in the state or enrolled in an institution of higher learning as defined in Section 18-8304(1)(d), it is submitted to the central registry with the offender's photograph and fingerprints.

a. An offender's photograph shall be in color. The sheriff shall forward one (1) photograph of the offender with each registration. Photographs submitted to the central registry shall be a copy of the new photographs taken at the time of each registration. From collected registration fees, the sheriff shall pay to the state the cost of photography materials lawfully required by a state agency or department.

b. The sheriff shall submit the required fingerprints on the federal bureau of investigation form FD-249. For each registrant, the sheriff shall forward one (1) FBI fingerprint cards with each registration.

05. Change of Address or Status Notification.

a. When an offender changes address or actual residence within a county, the offender will complete within two(2) days after the change the Idaho Sex Offender Registry Notification and Registration Form to provide the required notification.

b. When an offender moves to another county to establish permanent or temporary domicile, the offender must register as a new resident with the sheriff having jurisdiction within two (2) days of moving to the other county.

c. When an offender moves to another state, the offender shall notify the central registry by certified mail within five (5) days after moving to the other state. Question of "Certified" ??

d. When an offender enrolls as a student at or becomes an employee of a school, college, or university in the state, the offender, whether such enrollment or employment is part-time or full-time and is for more than fourteen (14) days or an aggregate period exceeding thirty (30) days per year, will complete within two (2) days of the commencement of employment or enrollment the Idaho Sex Offender Registry Notification and Registration Form to provide the required notification.

e. When an offender, who is a student at or an employee of a school, college, or university, changes status as a student or employee, the offender will complete within two (2) days of the change of status the Idaho Sex Offender Registry Notification and Registration Form to provide the required notification.

f. When a nonresident offender is required to register pursuant to Section 18-8304(1)(d), Idaho Code, the offender must register, within two (2) days of the commencement of employment or enrollment, with the sheriff having jurisdiction. When the status of such employment or enrollment changes, the offender will complete within two (2) days after the change the Idaho Sex Offender Registry Notification and Registration Form to provide required notification.

06. Notification to Local Law Enforcement. The bureau will provide to a local law enforcement agency on its request a list of registered sex offenders residing in its jurisdiction. The bureau will notify the local law enforcement agency with jurisdiction any time the bureau becomes aware of a change of status or residence of a registered sex offender and of a registered offender's intent to reside in the agency's jurisdiction. Whenever practical, the bureau will provide notification using the Idaho law enforcement telecommunication system (ILETS).

07. Notification to Other States. Within one (1) working day of receiving notification that a registered sex offender is moving to another state, the bureau will notify the receiving state's designated sex offender registration agency of the move by mail or electronic means.

08. Expungement of Central Registry Information.

a. Upon receipt of a certified copy of a death certificate recording the death of a person registered with the central registry, the bureau will expunge all records concerning the person from the central registry.

b. Upon receipt of a duly attested copy of a pardon issued by the governor of a state as to a conviction reported to the central registry, the bureau will expunge all records concerning the conviction from the central registry. If the pardoned person has no other conviction requiring registration, the bureau will expunge all references concerning the person from the central registry.

c. Upon receipt of a duly attested document from a court clerk that a conviction previously reported to the central registry has been reversed or dismissed by the court, except where such a dismissal is on a withheld judgment, the bureau will expunge all records concerning the conviction from the central registry. If the person has no other conviction requiring registration, the bureau will expunge all references concerning the person from the central registry. An offender registered for a withheld judgment is required to obtain relief from registration under provisions of Section 18-8310, Idaho Code.

d. Upon receipt of a duly attested document from a court clerk that a registered sex offender has been released by the court from registration requirements pursuant to Section 18-8310, Idaho Code, the bureau will expunge all records and references concerning the offender from the central registry.

09. Correction of Central Registry Information.

a. A person registered pursuant to Title 18, Chapters 83 or 84, Idaho Code, may submit a written request to the bureau to correct or modify information regarding that person in the central registry for the purpose of making the information accurate and complete. The bureau will respond to the request in writing within thirty (30) days.

b. A person whose request, under Subsection 011.09.a. of this Section, is denied, in whole or part, may appeal to the director for review of the decision within thirty (30) days after the mailing of the bureau's written response. The appeal must be in writing and must set out

the reasons for the appeal. The decision of the director will be in writing and made within forty-five (45) calendar days after the department's receipt of the appeal.

012. RELEASE OF INFORMATION TO THE PUBLIC.

01. Methods of Access.

a. Any person may inquire on a named person or obtain a list of sex offenders by geographic area by submitting a completed Request for Information Form SOR-4 to the bureau or local sheriff. The bureau or sheriff may only provide public access to central registry information by means of a completed Form SOR-4, which must include the requester's full name, address, and either driver's license number or social security number. The bureau or sheriff shall respond to a completed Form SOR-4 within ten (10) working days of receipt. A sheriff may refer a person to the bureau for public access to the central registry.

b. Any person can access registration information via an authorized web site.

02. Geographic Lists. Any person using a Form SOR-4 may request a list of offenders by county or zip code or any person may obtain a list of offenders by name, city, county or zip code from the bureau web site.

03. Information Released. Only central registry information authorized for release pursuant to Section 18-8323(2), Idaho Code, may be provided by the bureau or sheriff in response to a completed Form SOR-4 or as a response to a query of the web site. A conviction of incest (Section 18-6602, Idaho Code, or equivalent offense) shall be reported as sexual abuse of a child under sixteen (16) years of age (Section 18-1506, Idaho Code).

04. Fee for Accessing Information. The bureau shall collect a fee of five dollars (\$5) for each inquiry on a named person or for each request for a list of sex offenders by geographic area. Schools, state agencies, and nonprofit organizations working with youth, women, or other vulnerable populations are exempt from payment of the fee. The bureau may request information additional to that required by the Form SOR-4 to determine eligibility status for nonfee access to central registry information. A registered offender may request a copy of the offender's own central registry information without payment of a fee. Any person can access registration information without charge on the bureau's web site.

05. Photographs. Any person may request the photograph of a registered sex offender by submitting to the bureau a completed Request for Registry Photograph Form SOR-5. The bureau may only provide public access to central registry photographs by means of a completed Form SOR-5, which must include the requester's full name, address, and either driver's license number or social security number. Any person can access registration photos via the bureau's or an authorized web site.

06. Fee for Photographs. The bureau shall collect a fee of five dollars (\$5) for each photograph provided in response to a completed Form SOR-5. Any person can access registration photos without charge on the bureau's web site.

07. Retention of Request Forms. The bureau and all sheriffs shall retain in their files the original copies of forms SOR-4 and SOR-5 for a period of two (2) years from the date of submission. These forms are available for inspection only by law enforcement and criminal justice agencies.

013--999. (RESERVED).

FREQUENTLY ASKED QUESTIONS TO THE CENTRAL REGISTRY

1. *When a sex offender moves here from another state and their offense occurred 20 years ago, do they still need to register?*

If the offender was still incarcerated or under supervision on July 1, 1993, then he/she would need to register provided that the crime is substantially similar to one for which Idaho requires registration.

2. *Can a sex offender get off the registry if their withheld judgment is dismissed?*

Regardless of a dismissal of a withheld judgment, if the offender has not satisfied the 10-year time requirement referred to in Idaho Code §18-8310, the offender must continue to register. When the time requirement is fulfilled the offender can petition for relief of the registration requirement, as set out in Idaho Code §18-8310, if they qualify. This was determined in the Idaho Court of Appeals case #25323 2000 Opinion No. 74, State vs. Perkins.

3. *I cannot find a criminal history or FBI number for a sex offender. Can he still be registered?*

If there has not been a set of fingerprints from an arrest submitted to the FBI, there will not be a FBI number. However, this does not mean that the offender does not have a criminal history. The offender must still be registered, including complete information on convictions written on the Notification and Registration page 1 and 2. It should be verified that it includes the offense date, county, name used and penal facility.

4. *If a sex offender is in a county jail and is out on work release, does he need to register?*

Yes, a sex offender needs to be registered anytime the offender has access to the general public. If the offender is working unsupervised with access to the public, he needs to register in the county where the jail is located and use the jail address as his physical address.

5. *Sometimes juvenile sex offenders, who are registered in another state, move here. Can they be registered if their offense occurred before they were fourteen?*

No, the juvenile offender can only be registered if he/she meets the criteria of the Idaho Juvenile Sex Offender Statute. The statute states the offense(s) committed by the offender who was between the ages of fourteen to eighteen qualify for registration.

6. *If someone was registered in another state with a juvenile offense and they move here after they are 21, do they need to register?*

If the offender was adjudicated in juvenile court of a sex offense substantially equivalent to one requiring registration in Idaho, and the offender was required to register in another state for that offense after they turned 21, they must register here on the adult registry Idaho Code §18-8304. By virtue of the registration in another state on an adult or combined registry and their age when they come to Idaho, they fall under the rules of the adult registry. If they were not registered in another state, the offender will not have to register in Idaho.

7. *When a sex offender is non-compliant, what should I do?*

After an agency has verified that the offender is no longer at the address listed, and it has been more than 2 days with no address change, a warrant could be requested from the district attorney's office for failure to register. Consult with your prosecutor.

8. *If a sex offender is attending a college or university, but is out for the summer, does he need to change his status?*

If the offender is from out of state and plans to continue his education at the college or university, he does not need to change his status during the summer. He is still considered an enrolled student. However, all offenders, regardless of residence, should do an address change to the summer address.

9. *Can a registered sex offender attend school events such as football games?*

Under IC 18-8329, it is lawful for a sex offender to be on school ground if he is attending an academic conference or other scheduled extracurricular school event with school officials present when the offender is a parent or legal guardian of a child who is participating in the conference or extracurricular event. The statute defines "extracurricular" to mean any school-sponsored activity that is outside the regular curriculum, occurring during or outside regular school hours including, but not limited to, academic, artistic, athletic or recreational activities.

10. *If an offender moves from one county to another what should I do?*

This would be treated as a new registration in the county where he now resides. A full registration complete with fingerprints and photo would be required and a \$40 fee can be collected by the registering agency.

11. If an offender lives in one county and vacations or works in another county regularly spending the night for more than the 2 consecutive days, would he be required to register in that county?

Yes, he/she would be required to maintain a dual registration. This is also true if an offender resides in the same county, but has 2 different addresses within the county that at which he/she is spending consecutive nights at.

SIGNIFICANT COURT CASES and IDAHO SEX OFFENDER REGISTRATION

Idaho Court of Appeals, case 24323, November 1, 2000. State of Idaho vs. James Douglas Perkins

Idaho Code §18-8310 states that "...any person, other than a recidivist, an offender who has been convicted of an aggravated offense, or an offender designated as a violent sexual predator, may, after a period of ten (10) years from the date the person was released from incarceration or placed on parole, supervised release or probation, whichever is greater, petition the district court for a show cause hearing to determine whether the person shall be exempted from the duty to register as a sexual offender."

The Perkins decision concluded that offenders, who were granted a withheld judgment, must comply with Idaho Code §18-8310 and have no exception to the 10-year waiting period for exemption from the registration. The offender must continue to comply with the reporting requirements until the 10-year waiting period is reached, at which time the offender may petition to the court for the exemption.

Idaho Court of Appeals, case 29169, October 31, 2003. State of Idaho vs. John K. Knapp

The Knapp decision concluded that Idaho Code §18-8310 provides only a mechanism under which a sex offender may petition for relief from the registration requirement; it does not mandate relief. The court found that Idaho Code §18-8310 requires petitioners to carry, by clear and convincing evidence, a very heavy burden of proof. It concluded that Knapp did not show that the legislature did not intend the bar to be set quite so high and that Knapp did not carry his burden of proof under the statute.

Supreme Court of the United States, Connecticut Dept. of Public Safety v. Doe (01-1231), Argued November 13, 2002-Decided March 5, 2003.

The court held that the Second Circuit's judgment must be reversed because due process does not require the opportunity to prove a fact that is not material to the State's statutory scheme. Mere injury to reputation, even if defamatory, does not constitute the deprivation of a liberty interest. The court stated that due process does not entitle the defendant to a hearing to establish a fact-that he is not currently dangerous-that is not material under the statute. The law (just as Idaho's) requirements turn on an offender's conviction alone-a fact that a convicted offender has already had a procedurally safeguarded opportunity to contest.

Supreme Court of the United States, Smith v. Doe (01-729), Argued November 13, 2002-Decided March 5, 2003.

The court held that the Alaska Sex Offender Registration Act is nonpunitive; its retroactive application does not violate the Ex Post Facto Clause. It said that the intention was to enact a regulatory scheme that is civil and nonpunitive. The fact that Alaska posts offender information on the Internet does not alter this conclusion.